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LETTER DATED 19 MARCH 1993 FROM THE DEPUTY PERMANENT REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour to transmit the enclosed report of the Government of the United States of America on substantiated information on Iraqi war crimes in accordance with Security Council resolution 674 (1990).

I would be grateful if the present letter and its annex could be circulated as a document of the Security Council.

(Signed) Edward S. WALKER, Jr.

REPORT

ON

IRAQI WAR CRIMES

(DESERT SHIELD/DESERT STORM)

[UNCLASSIFIED VERSION]

PREPARED UNDER THE AUSPICES OF
SECRETARY OF THE ARMY

8 January 1992

WAR CRIMES DOCUMENTATION CENTER
INTERNATIONAL AFFAIRS DIVISION
OFFICE OF THE JUDGE ADVOCATE GENERAL
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I. (U) SUMMARY OF THE REPORT ON IRAQI WAR CRIMES (DESERT SHIELD/DESERT STORM)

A. (U) INTRODUCTION

During Desert Shield and Desert Storm, the Office of The Judge Advocate General of the Army conducted an investigation for the Department of Defense into violations of the law of war committed by Iraqi military forces at the direction or with the approval of Saddam Husayn and officials of the Ba'ath Socialist Party. The following is a report on the methodology and findings of the investigation. The investigation concludes that Iraqi violations of the law of war were widespread and conducted pursuant to the orders or with the approval of the national leadership of Iraq.

1. (U) Relevant Law of War Treaties

The following law of war treaties are relevant to this investigation:

a. Hague Convention IV and its Annex Respecting the Laws and Customs of War on Land of 18 October 1907 (Hague IV).

b. Hague Convention VIII Relative to the Laying of Automatic Submarine Contact Mines of 18 October 1907 (Hague VIII).

c. Geneva Protocol for the Prohibition of the Use of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare of 17 June 1925 (1925 Geneva Protocol).

d. The Geneva Conventions for the Protection of War Victims of August 12, 1949:

(1) Geneva Convention for the Amelioration of the Condition of Wounded and Sick in Armed Forces in the Field.

(2) Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea.

(3) Geneva Convention Relative to the Treatment of Prisoners of War (hereinafter Third Geneva Convention or GPW).

(4) Geneva Convention Relative to the Protection of Civilian Persons in Time of War (hereinafter Fourth Geneva Convention or GC).

e. Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict of 14 May 1954 (1954 Hague Convention).

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Iraq and Kuwait are parties to the 1925 Geneva Protocol, the 1949 Geneva Conventions, and the 1954 Hague Convention. They are not parties to Hague IV and Hague VIII, but, because those conventions are now customary international law, Iraq and Kuwait are bound by their provisions as well. With the exception of the 1954 Hague Convention, the United States is a party to each of these international agreements.

All states involved in the Persian Gulf War are parties to the four Geneva Conventions of 1949, which were enacted to protect noncombatants, such as civilians living in occupied territory and prisoners of war. Article 1, common to these four conventions, requires that the parties "respect and ensure respect" for all the obligations they impose upon the party states.[1] These obligations include the requirement to take all reasonable and necessary steps to investigate and bring to justice individuals responsible for violations of the conventions. In a separate article common to the four conventions, no nation has the authority to absolve either itself or any other nation party to those treaties of any liability incurred as a result of violating a provision of the conventions.[2]

2. (U) U.N. Security Council Actions

The following Security Council Resolutions deal with Iraqi responsibility for war crimes:

a. Security Council Resolution 664 (18 August 1990) demanded that Iraq "permit and facilitate the immediate departure from Kuwait and Iraq of the nationals of third countries and grant immediate and continuing access of consular officials to such nationals [and]...that Iraq take no action to jeopardize the safety, security, or health of such nationals."

b. Security Council Resolution 666 (13 September 1990) reaffirmed Iraq's responsibility for the safety and well-being of the hostages "in accordance with international humanitarian law,[3] including...the Geneva Convention Relative to the Protection of Civilian Persons in Time of War."

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[1] Specifically, Article 1 states, "The High Contracting Parties undertake to respect and ensure respect for the present Convention in all circumstances" (emphasis added).

[2] The most serious violations of the 1949 Conventions are known as "Grave Breaches." They are basically the equivalent of major felonies. Specific offenses are set forth in each of the treaties.

[3] "International humanitarian law" or the "law of armed conflict" is referred to by the Department of Defense and the U.S. Army as the law of war, its traditional name. The terms are essentially synonymous. The law of war is that part of international law that regulates the conduct of hostilities and

c. Security Council Resolution 667 (16 September 1990) expressed outrage "at recent violations by Iraq of diplomatic premises in Kuwait and at the abduction of personnel enjoying diplomatic immunity and foreign nationals who were present in...[those] premises," while recalling that Iraq "is fully responsible for any use of violence against foreign nationals or against any diplomatic or consular mission in Kuwait or its personnel."

d. Security Council Resolution 670 (25 September 1990) condemned Iraq for its "holding of third state nationals against their will, in flagrant violation of ... international humanitarian law."

e. Security Council Resolution 674 (29 October 1990) called upon Member States "to collate substantiated information in their possession or submitted to them on the Grave Breaches by Iraq...and to make this information available to the [Security] Council."

3. (U) U.S. Policy

In order to ensure compliance with the law of war by all its armed forces, the United States has one of the most comprehensive law of war programs in existence. Department of Defense Directive 5100.77 is the foundation for the U.S. military law of war program. It contains four policies that relate directly to the obligation to investigate and prosecute alleged violations of the law of war:

a. "The law of war and the obligations of the U.S. Government under that law...[will be] observed and enforced by the U.S. Armed Forces."

b. "A program, designed to prevent violations of the law of war...[will be] implemented by the U.S. Armed Forces."

c. "Alleged violations of the law of war, whether committed by or against U.S. or enemy personnel...[will be] promptly reported, thoroughly investigated, and, where appropriate, remedied by corrective action."

d. "Violations of the law of war alleged to have been committed by or against allied military or civilian personnel shall be reported through appropriate military command channels for ultimate transmission to appropriate agencies of allied governments."

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provides protection to noncombatants.

While the United States has the obligation to respect and ensure respect for the law of war, this obligation must be read in a manner that is consistent with international law. For example, while the United States is obligated to investigate law of war violations committed by or against U.S. personnel, it also has an obligation to respect the sovereign rights of other nations. Consequently, the obligation to investigate violations of the law of war committed against allied personnel is subject to the consent of the ally in question, particularly if the alleged violations occurred within the territory of the ally.

DoD Directive 5100.77 appoints the Secretary of the Army as the DoD Executive Agent for the administration of the directive with respect to alleged violations of the law of war committed against U.S. personnel. To further implement the directive's requirements, each service has issued regulations about reporting and investigating suspected violations of the law of war committed by or against its personnel. For example, Army Chief of Staff Regulation 11-2 assigns to The Judge Advocate General of the Army responsibility for investigation, collection, collation, evaluation, and reporting of war crimes alleged to have been committed against U.S. personnel. Also, formal criminal investigation of war crimes committed by or against U.S. Army personnel is assigned to the U.S. Army Criminal Investigation Command by Army Regulation 195-2.

B. (U) U.S. ACTIONS

To carry out the regulatory directives dealing with the investigation and prosecution of war crimes, informal collection of information on Iraqi war crimes began in the Office of The Judge Advocate General of the U.S. Army on 3 August 1990. Media reports indicated that U.S. citizens in Kuwait had been taken hostage by Iraqi forces and forcibly deported to Iraq. These acts constituted grave breaches under the Conventions. Collection of information continued as reports of other potential Iraqi war crimes were received.

An interagency meeting was held on 30 August 1990 to establish a process for informal coordination on war crimes matters and to ensure that policymakers were kept informed of the issues. The participants at the meeting agreed that the Army would be responsible for a preliminary war crimes investigation, with the other agencies and military services providing support and assistance. They understood that any formal war crimes investigation would depend upon authorization by appropriate authority and, depending on the scope of the investigation, might also require the consent of the host nation.

The initial effort to collect information on Iraqi war crimes against U.S. personnel continued. Although U.S. hostages in Iraq were released in December 1990, Iraqi destruction of the national

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identity of Kuwait and abuse of civilians in Kuwait did not abate. Iraq's threats to use chemical and biological weapons, coupled with its conduct in Kuwait, prompted U.S. commands in Saudi Arabia to issue detailed instructions for the reporting of any war crimes committed by Iraqi forces against U.S. and other Coalition forces. It became apparent that a greater effort would be necessary with regard to collection of evidence and investigation of war crimes. Accordingly, on 24 December 1990, the Secretary of Defense authorized U.S. Central Command to broaden its role from gathering information to active investigation of alleged Iraqi violations of the law of war. As a result, the Secretary of the Army mobilized two reserve component judge advocate international law detachments. Subsequently, due to the limited scope of DoD Directive 5100.77, the Deputy Secretary of Defense broadened the responsibility of the Secretary of the Army, as Executive Agent for the Department of Defense, to include assistance to Coalition partners, with their consent, in investigating war crimes committed against their nationals. The Secretary of the Army appointed the Army General Counsel to oversee execution of these responsibilities. The General Counsel further delegated execution to The Judge Advocate General of the Army.

Detachments selected for mobilization were the 199th Judge Advocate Detachment (St. Petersburg, Florida) and the 208th Judge Advocate Detachment (Washington, D.C.). The 199th was to deploy to the Kuwaiti Theater of Operations, where it would investigate allegations and collect evidence. The 208th was to serve in Washington, D.C., in support of the 199th, while simultaneously starting and operating the War Crimes Documentation Center (Center). The Center was augmented by two volunteer U.S. Naval Reserve Judge Advocates and an Army National Guard Judge Advocate. The 199th detachment of five officers and two enlisted personnel deployed to SW Asia on 7 February 1991. That detachment was subsequently augmented by fifteen Kuwaiti volunteers.

Based upon reports received up to that time regarding Iraqi conduct during the occupation of Kuwait, the two teams were directed to focus on violations against noncombatants under the four 1949 Geneva Conventions, rather than on violations of the law of war that might occur between combatants during actual hostilities. These violations against noncombatants constitute "people" offenses that require statements from foreign national victims or eyewitnesses. Offenses involving Iraqi violation of other law of war treaties either relating to the military occupation, such as looting and seizing Kuwaiti cultural property, or relating to military operations, such as the destruction of the Kuwaiti oil fields, or launching of Scud missiles against Saudi Arabia and Israel, could be developed by the International Affairs Division of the Office of The Judge Advocate General from information received from United States Central Command (USCENTCOM) and the Joint Chiefs of Staff.

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1. (U) Activities and Findings of the 208th Judge Advocate Detachment

The 208th focused its efforts on the treatment by Iraq of the U.S. civilian hostages, "human shields," and the U.S. prisoners of war. The 208th canvassed the relevant Federal agencies to locate available information on Iraqi acts that might be war crimes. The unit ascertained that the Department of State maintained comprehensive records regarding U.S. civilians taken hostage by Iraq, including those used as "human shields" around military objectives in Iraq. They also discovered that excellent information regarding treatment of U.S. military personnel was available through the Defense Intelligence Agency (DIA).[4]

2. (U) Iraqi Treatment of U.S. Prisoners of War

A total of forty-seven U.S. military personnel were initially listed as either prisoners of war or missing in action during the Gulf War. Since then, twenty-six have been officially listed as having been killed in action. Twenty-one individuals were captured and held as prisoners of war by Iraq. They were repatriated between 3-9 March 1991.

All of the prisoners of war were the victims of war crimes committed by Iraq. Although unable to identify the individuals who abused U.S. prisoners of war, the Center has accumulated extensive circumstantial evidence to support a *prima facie* case that the mistreatment of U.S. prisoners of war occurred with at least the acquiescence, and probably at the direction, of the Iraqi leadership.

3. (U) Iraqi Treatment of U.S. Hostages

Records of the Department of State and Defense Intelligence Agency document Iraq's unlawful taking of U.S. civilians as hostages, the forced removal of U.S. hostages from Kuwait, and the use of U.S. hostages as "human shields" around Iraqi strategic sites. Each of these actions is a violation of the Fourth Geneva Convention. The Center has evidence of over 4,900 U.S. hostages taken by Iraq, 106 of whom were used by Iraq as human shields. The files and documents gathered by the Department of State establish a *prima facie* case of grave breaches of the Fourth Geneva Convention committed against U.S. citizens by Iraq.

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[4] Iraqi treatment of the captured CBS newsmen was not included within the scope of this investigation.

4. (U) Other Documentation

The 208th also established extensive war crimes research files, as well as numerous files related to specific incidents of Iraqi war crimes alleged by refugees, news reports, and the reports of humanitarian organizations. Files were created covering the actions of the "inner circle" of the leadership of Iraq and the Ba'ath Socialist Party. Finally, the 208th worked closely with the 199th and U.S. Joint Combat Camera Center Teams to establish a video/photographic library of Iraqi war crimes.

5. (U) Activities and Findings of the 199th Judge Advocate Detachment

The 199th was tasked to conduct investigations into, and document, Iraqi war crimes. The concept of operations required that the 199th deploy in teams to three locations. The team assigned to Riyadh was responsible for reviewing Individual Intelligence Reports, coordinating with USCENTCOM intelligence, administrators of enemy prisoner of war (EPW) camps, U.S. Combat Camera Teams, and other Coalition force sources. They were also tasked with developing and maintaining the war crimes in-theater computer database.

A second team from the 199th was assigned the task of investigating any Iraqi war crimes that might be perpetrated against U.S. forces in the field during the ground war to liberate Kuwait. This team was also given the mission of deploying into Kuwait as soon as possible to investigate possible war crimes committed against Kuwaiti citizens and third-country nationals residing in Kuwait.

The third aspect of the 199th's operation involved establishing a Judge Advocate presence at the Defense Intelligence Agency's Documentation Examination Center located in Dhahran, Saudi Arabia, where all captured Iraqi documents were sent for intelligence gathering purposes.

Requests for reports of Iraqi war crimes committed against U.S. forces were made to all USCENTCOM commands. None were received, and, in visits to combat units in the USCENTCOM area of operations, the 199th discovered no evidence that Iraqi forces committed law of war violations against U.S. or other Coalition forces during the 100-hour ground campaign.

Elements of the 199th arrived in Kuwait City on 1 March 1991, and upon arrival, reestablished contact with the Kuwaiti Ministry of Justice. Then, with the consent of the Ministry, they contacted members of Kuwaiti resistance groups, the underground press, various medical and hospital staff personnel, and community leaders. With the assistance of seven Kuwaiti volunteers who acted as translators and scouts to ferret out evidence and locate victims of Iraqi war crimes, the team commenced its war crimes investigation and documentation mission concerning atrocities occurring during Iraq's occupation of Kuwait. The Ministry of Justice was also investigating Iraqi actions during the occupation. To avoid duplication of effort, and in the spirit of cooperation, the mission of the 199th evolved into establishing the nature and extent of Iraqi offenses rather than building cases for prosecution. One of the goals was to accumulate and organize the evidence in a fashion that would facilitate preparation of criminal cases should prosecution of war criminals at a later date become an option.

6. (U) Evidence of Iraqi War Crimes

In accordance with this modified mission, the 199th collected evidence of Iraqi war crimes that confirms the massive scope of the offenses committed against the citizens and residents of Kuwait. The evidence includes written and videotaped accounts from rape and torture victims, photographs of murdered Kuwaitis, and videotapes of burial sites and torture implements. The Defense Intelligence Agency's Document Examination Center in Dhahran, Saudi Arabia, also produced documentary evidence of Iraqi war crimes.

The evidence establishes that there were at least two dozen torture sites in Kuwait City, most of which were located in either police stations or sports facilities. The gruesome evidence confirms torture by amputation of or injury to various body parts, to include limbs, eyes, tongues, ears, noses, lips, and genitalia. Electric shock was applied to sensitive parts of the body (nose, mouth, genitalia); electric drills were used to penetrate the chest, leg(s), or arm(s) of victims. Victims were beaten until bones were broken, skulls were crushed, and faces disfigured. Some victims were killed in acid baths. Women taken hostage were raped repeatedly. Eyewitnesses described the murder of Kuwaitis by Iraqi military personnel who forced family members to watch. Eyewitnesses reported Iraqis torturing a woman by making her eat her own flesh as it was cut from her body. Other eyewitness accounts describe Iraqi execution of Kuwaiti civilians by dismemberment and beatings while victims were suspended from ceilings and with implements such as axes. The accounts also describe psychological terror inflicted by mock executions.

Documents collected by the 199th clearly establish that Iraq intended to use chemical weapons and confirm Iraq's premeditated planning for the destruction of the Kuwaiti oil fields and the Saudi and other desalinization plants. Other documents authorized the "reeducation" of Kuwaitis and the deportation of Kuwaiti civilians to Iraq. Summary executions were authorized for Kuwaiti civilians found praying on their roofs and for other Iraqi-mandated offenses such as failing to display pictures of Saddam Husayn, refusing to serve Iraqi soldiers in stores or markets, possessing pictures of members of the Kuwaiti royal family, and writing "anti-Iraqi" graffiti.

The 199th confirmed through its investigation of Kuwait City medical records that, for the period of the Iraqi occupation of Kuwait (2 August 1990 to 3 March 1991), a total of 1,082 Kuwaiti civilian deaths could be directly attributed to Iraqi criminal conduct. The deaths include 120 babies left to die after being removed from incubators that were taken to Iraq; 153 children between the ages of one and thirteen killed for various reasons; and fifty-seven mentally ill individuals killed simply because of their handicap. All of these deaths constitute grave breaches of the Fourth Geneva Convention.

Throughout the Iraqi occupation of Kuwait, Iraqi citizens were moved into Kuwait as part of Saddam Husayn's intended plan for the dissolution of Kuwait as a sovereign nation and its annexation as Iraq's nineteenth province. Kuwaiti civilians were displaced from their homes by these Iraqi immigrants. This is prohibited by the Fourth Geneva Convention.

The 199th was able to identify, from various sources, a number of Iraqi soldiers suspected of war crimes against Kuwaitis. This is a preliminary list which will require additional investigative efforts before prosecutable cases can be presented against specific Iraqi personnel. For example, some individuals appear on the list simply because they were members of Iraqi units known to have been in Kuwait City at the time the atrocities occurred. Documents containing the Iraqi order of battle provide information which allows certain Iraqi units to be linked with law of war violations contained in incident reports.

The 199th assembled 1,226 war crime files. Of these, 616 relate to information obtained while the 199th was in Kuwait. Fifty-five files were obtained through research at the Document Examination Center, while 555 were created using Individual Intelligence Reports, press accounts of war crimes, and the December 1990 Amnesty International Report, Iraq/Occupied Kuwait: Human Rights Violations Since August 2, 1990.

Although the 199th investigators in Kuwait City uncovered the names of over 500 Iraqis who allegedly committed war crimes, for several reasons none of these leads resulted in the apprehension of any Iraqis from among the 69,822 enemy prisoners of war in Coalition custody.

Perhaps the most significant reason for the lack of apprehensions is that few Iraqi prisoners of war provided their real names, ranks, or other vital information, either for fear of connection to the war crimes committed in Kuwait or for fear of retribution against their families when the Government of Iraq was informed of their capture. In addition, the limited duration of

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the ground campaign, as well as the large number of prisoners and their rapid repatriation, limited the amount of time available for detailed investigation and for verification of the preliminary information provided by the 199th investigators in Kuwait.

7. (U) Activities and Findings of the International Affairs Division

In addition to providing advice to the War Crimes Documentation Center on technical matters related to its work, the International Affairs Division reviewed Iraqi actions not within the scope of the two reserve teams' missions. The Division monitored the indiscriminate Scud missile attacks by Iraq on Saudi Arabia and Israel, focused on the intentional release of oil by Iraq into the Persian Gulf from ships and from the Mina el-Ahmadi facility in Kuwait, and noted the intentional destruction of hundreds of Kuwaiti oil wells.

The Gulf was fouled when between seven and nine million barrels of oil were discharged into it by Iraq. In the desert, five hundred and ninety oil wellheads were damaged or destroyed: five hundred and eight of them were set on fire, and the remaining eighty-two were damaged in such a manner that twenty-five to fifty million barrels of oil flowed freely from them onto the desert floor. The result was total devastation of the fragile desert ecological system and the pollution of water sources critical to survival.

A member of the Division served as a representative of the United States to an international conference to discuss these acts. From 9 to 12 July 1991, the Government of Canada, in concert with the Secretary General of the United Nations, hosted a conference of international experts in Ottawa, Ontario, to consider the law of war implications of the environmental devastation caused by the Iraqis. There was general agreement that the actions cited constitute violations of the law of war, specifically:

a. Article 23(g) of the Annex to the 1907 Hague Convention IV Respecting the Customs of War on Land of 18 October 1907, forbids the destruction of "enemy property, unless...imperatively demanded by the necessities of war;" and,

b. Article 147 of the GC, makes the "extensive destruction...of property, not justified by military necessity and carried out unlawfully and wantonly" a grave breach.

The International Affairs Division's review of the facts regarding the discharge of oil into the Gulf and the destruction of the Kuwaiti oil fields agrees with the conclusions reached by the

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conferees of the Ottawa conference. Each act was intended by Iraq to wreak indiscriminate destruction in violation of the law of war.

It is unclear why Iraq released oil into the Gulf. Conceivably, Iraq hoped to interfere with Coalition naval operations in the Gulf, perhaps to impede expected amphibious operations. By threatening desalinization plants with oil contamination, Iraq may also have hoped to disrupt Coalition military operations and Saudi civilian life dependent upon a steady flow of fresh water. As it turned out, the cooperative efforts of the Coalition members, including the U.S. Coast Guard and the U.S. National Oceanic & Atmosphere Administration, resulted in the oil slick having a negligible effect on the operations of Coalition naval forces.

Iraq's actions forced Coalition military operations to protect the environment, which resulted in additional damage to Kuwaiti property. Specifically, the flow from the el-Ahmahdi terminal was stopped by the Coalition's aerial destruction of vital equipment in the vicinity of the terminal. This damage is also the responsibility of Iraq.

As Iraqi forces ignited the first Kuwaiti oil wells, there was public speculation that the fire and smoke were intended to impair the ability of Coalition forces to conduct both air and ground operations, primarily by obscuring visual and electro-optical sensing devices. Review of Iraqi actions makes it clear that the oil well destruction had no military purpose; it was designed to wreck Kuwait's future -- a scorched earth policy carried to the extreme.

C. (U) FINDINGS

1. (U) Iraqi War Crimes

The term "war crime" is the technical expression for a violation of the law of war, and every violation of the law of war is a war crime. The Army's investigation makes it clear that Iraqi violations of the law of war were widespread and premeditated. They included taking hostages, torture and murder of civilians, looting civilian property, looting cultural property, indiscriminate attacks on noncombatants by the launching of Scud missiles against cities rather than specific military objectives, illegal employment of sea mines, mistreatment of prisoners of war, and unnecessary destruction of property, as evidenced by the release of oil into the Persian Gulf and the destruction of hundreds of Kuwaiti oil wells.

Specific Iraqi war crimes, which have been extensively documented by the War Crimes Documentation Center include the following:

a. The taking of Kuwaiti nationals as hostages, and their individual and mass forcible deportation to Iraq, in violation of Articles 34, 49, and 147, GC.

b. The taking of third country nationals in Kuwait as hostages, and their individual and mass forcible deportation to Iraq, in violation of Articles 34, 49, and 147, GC.

c. The taking of third country nationals in Iraq as hostages, and their individual and mass forcible transfer within Iraq, in violation of Articles 34, 35, and 147, GC.

d. Compelling Kuwaiti and other foreign nationals to serve in the armed forces of Iraq, in violation of Articles 51 and 147, GC.

e. Use of Kuwaiti and third country nationals as human shields in violation of Articles 28, and 38(4), GC.

f. Inhumane treatment of Kuwaiti and third country civilians, to include rape and wilful killing, in violation of Articles 27, 32, and 147, GC.

g. The transfer of Iraq's civilian population into occupied Kuwait, in violation of Article 49, GC.

h. Torture and other inhumane treatment of Coalition and U.S. prisoners of war, in violation of Articles 13, 17, 22, 25, 26, 27, and 130, GPW.

i. Using Coalition prisoners of war as human shields to render military objectives immune from military operations, in violation of Article 23, GPW.

j. Unnecessary destruction of Kuwaiti private and public property, in violation of Article 23(g), Annex to Hague IV.

k. Pillage, in violation of Article 47, Annex to Hague IV.

l. Illegal confiscation/inadequate safeguarding of Kuwaiti public property, in violation of Article 55, Annex to Hague IV, and Article 147, GC.

m. Pillage of Kuwaiti civilian hospitals, in violation of Articles 55, 56, 57, and 147, GC.

n. Indiscriminate Scud missile attacks against the noncombatant civilians of Saudi Arabia and Israel (the latter a neutral to the conflict), unnecessary destruction in violation of Article 23(g), Annex to Hague IV.

o. Intentional release of oil into the Persian Gulf and its sabotage of the Al-Burgan and Rumalia oil fields in Kuwait, unnecessary destruction in violation of Articles 23(g) and 55, Annex to Hague IV, and Articles 53 and 147, GC.

p. Employment of unanchored naval mines and mines lacking devices for their self-neutralization in the event of their breaking loose from their moorings, in violation of Article 1, Hague VIII.

2. (U) Command Responsibility

Article 29, GC, states "[t]he Party to the conflict in whose hands protected persons may be, is responsible for the treatment accorded to them by its agents, irrespective of any individual responsibility which may be incurred." Similarly, Article 12, GPW, declares "[p]risoners of war are in the hands of the enemy Power, but not of the individuals or military units who have captured them. Irrespective of the individual responsibilities that may exist, the Detaining Power is responsible for the treatment given them."

Responsibility for the treatment of civilian detainees and prisoners of war in Iraqi hands clearly lay with the Government of Iraq and its senior officials. Criminal responsibility for violations of the law of war rests with a commander, including the national leadership, who:

(a) orders or permits the offenses to be committed, or

(b) knew or should have known of the offenses, had the means to prevent or halt them, and failed to do all which he or she was capable of doing to prevent the offenses or their recurrence.

The evidence collected during this investigation establishes a _prima facie_ case that the violations of the law of war committed against Kuwaiti civilians and property, and against third party nationals, were so widespread and methodical that they could not have occurred without the authority or knowledge of Saddam Husayn. They are war crimes for which Saddam Husayn, officials of the Ba'ath Party, and his subordinates bear responsibility. However, the principal responsibility rests with Saddam Husayn. The command and control of Saddam Husayn over Iraqi military and security forces operating in Kuwait before the air campaign began appeared to be total and unequivocal. There is substantial evidence that the actions alleged either were done as a direct result of his

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orders, done with his knowledge and approval, or were acts of which he should have been aware.

D. (U) CONCLUSION

The War Crimes Documentation Center has accumulated several linear feet of files containing evidence of Iraqi war crimes to support the statements contained in this Summary. This extensive documentation includes: U.S. documents; captured Iraqi documents; videotaped and written statements of eyewitnesses to war crimes, prisoners of war, "human shields," and Kuwaiti victims; graphic videotape and still photographic evidence of war crimes; and general references dealing with the prosecution of war crimes. The evidence should be an excellent base to start preparing war crimes cases.

The national command authorities of Iraq, as well as individual Iraqi officials, perpetrated numerous war crimes against both military and civilian personnel of the United States and Kuwait. The War Crimes Documentation Center has assembled the evidence to prove it.

II. (U) IRAQI TREATMENT OF U.S. PRISONERS OF WAR (POWs)

A. (U) HISTORICAL ASSESSMENT OF IRAQI TREATMENT OF POWs

How Iraq would handle American POWs after the Persian Gulf War began was a major concern of the American intelligence community during the war's planning stages. Consequently, as American involvement in the Gulf conflict deepened, the Defense Intelligence Agency (DIA) prepared detailed Defense Special Assessments on Iraq's probable POW handling procedures and policies and on the treatment POWs would probably receive.

These assessments were based upon Iraq's handling of Iranian POWs during the eight-year Iran-Iraq conflict. During that war Iraq developed a formal process for handling enemy POWs which strictly controlled their transportation, incarceration, and exploitation.

1. (U) The Process

DIA determined that a POW captured by the Iraqis would be immediately searched by the capturing unit. Although this initial search was generally cursory, enlisted personnel of the capturing unit would be likely to appropriate all of the POW's valuable personal effects. After the initial search, a POW would be rapidly moved through Iraqi battalion and brigade levels. Questioning at these levels would be of a limited tactical nature.

Within one day, a POW would be transported to Corps headquarters. If it was determined that a POW was politically or militarily significant (as all U.S. POWs were), that individual would be transported to Baghdad as soon as possible. The POW would then be interrogated at "special facilities."

DIA projected that, due to the high political value placed on Coalition POWs, they would be quickly moved to prisons in Baghdad. DIA further expected that Baghdad's political interests would be best served by keeping Coalition POWs alive.

2. (U) POW Treatment

Evidence showed that during the Iran-Iraq war, Iraq physically and psychologically abused POWs and exploited them for both military and political purposes.

DIA prepared an assessment of the probable treatment that American POWs would receive from the Iraqis. DIA projected that the treatment of American POWs in Iraqi camps would be particularly harsh. It was expected that Iraqi torture practices which had been previously applied to political dissidents, Kurdish minorities, and Iranian POWs would also be used against U.S. POWs. These practices included being hanged by the feet with barbed wire, fingernail extraction, electrical shock, burning of the individual with irons or cigarettes, and sexual abuse.

Hearing loss, visual impairment, and broken teeth were common injuries suffered by Iranian POWs in Iraqi POW camps during the Iran/Iraq War. These injuries were a result of the routine Iraqi practice of beating the prisoner about the head and striking both ears simultaneously. Iraqis also administered frequent beatings with batons and rubber hoses, sometimes to areas of the body where the POW had suffered previous wounds or injuries.

Mental abuses, such as extended periods of isolation, mock executions, and food/water deprivation were also common practices. Iraq also routinely pressured POWs into giving radio and television interviews.

DIA's assessment of likely treatment concluded that "physical and psychological abuse will be used extensively as methods of extracting information, creating friction between prisoners, and exploiting the prison populace."

DIA's assessments were accurate. Iraq used its established POW handling system to move Coalition POWs rapidly from the site of capture to prisoner interrogation centers in Baghdad. DIA's assessment of the harsh manner in which coalition POWs would probably be treated by their Iraqi captors was particularly accurate. Each American POW was subjected to physical torture and/or mental abuse, and many of the types of torture projected by DIA, including the use of electrical shocks and the holding of mock executions, were frequently used.

B. (U) METHODOLOGY OF POW INTELLIGENCE GATHERING AND DEBRIEFING

During the period following Iraq's invasion of Kuwait on 2 August 1990, extensive efforts were made by the Joint Services Support Directorate (AF/INU), Headquarters Air Force, and DIA's Special Office for Prisoners of War and Missing in Action (POW-MIA), to ensure that (1) a system of collection, analysis and dissemination of POW-MIA information would be established, and (2) all American POWs would be uniformly and completely debriefed upon repatriation.

1. (U) The Joint Services Support Directorate Had Primary POW Debriefing Responsibility

AF/INU bore primary DOD responsibility for debriefing returning POWs from Operation Desert Storm. AF/INU fulfilled this mission by updating Operation Homecoming[5] debriefing guidelines and preparing an Operation Yellow Ribbon debriefing training package. Although each of the four services was responsible for debriefing its own repatriated POWs, AF/INU assumed responsibility for ensuring coordination of the scope and depth of each official debriefing and ensured the inclusion of questions about any law of war violations that may have been committed during a POW's captivity.

The Operation Yellow Ribbon debriefer training package was disseminated at an all-service training session conducted by AF/INU before the initial POW debriefs began. The goal was to "ensure appropriate conformity and completeness of all debriefs." War Crimes Documentation Center (WCDC) File 49. Also included in the training session package were questions from the DIA POW-MIA office and portions of the 1949 Geneva Convention Relative to the Treatment of POWs to guarantee uniform debriefings of returnees on potential law of war violations as well.

Debriefers were instructed to cover the following topics listed in order of priority:

- Americans/Allies still being held;
- Americans/Allies who died in captivity;
- All possible American/Allies seen/heard in captivity;
- Physical mistreatment/torture and violations of Geneva Conventions;
- Details of captivity from moment when isolated, including:
  - Confinement,
  - Daily routine, and
  - Communication with other POWs.

On completion of the debriefs, "the voice recordings of all debriefs, information reports, and hard copy summaries provided by the debriefers [are to] be retained and stored in the DOD Code of Conduct/Survival Evasion, Resistance and Escape/POW archives located at Fort Belvoir, Virginia, IAW DOD Directive 1300.7" with copies made available to the WCDC for its records.

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[5] Operation Homecoming was the program for debriefing repatriated Vietnam War PWs.

2. (U) Following Commencement Of Hostilities, The DIA Activated Its Intelligence Operations Center

Immediately following initiation of hostilities, DIA POW-MIA activated its Intelligence Operations Center (Ops Ctr). The Ops Ctr's mission was to monitor and analyze all incoming information relating to Coalition POW-MIAs and to provide timely, accurate intelligence support to operational commanders.

Numerous sources provided information. Incoming information was delivered to the watch officer who reviewed it, conducted preliminary analysis, and suggested appropriate files, e.g., Casualty, Source, Facility, Treatment, Debriefs, Collections, and Database (for entry into an automated database). Interested parties, such as the service casualty offices, Air Force INU, the Joint Special Operations Command (JSOC), and the WCDC also received copies.

The Ops Ctr disseminated POW-MIA related information/intelligence to all appropriate organizations/agencies throughout the war. DIA POW-MIA also established an extensive list of pertinent questions to be used in the debriefing of American POWs. These questions were provided to all debriefers during their training session and mirrored the priority topics previously noted. (WCDC File 56). For example, the first questions asked of any returnee were "How many Americans did you observe in captivity? Was every American released?" The questions dealt with the treatment and methods used to interrogate returnees during their captivity, including methods of torture, intimidation, lack of medical care, public parading, and interrogation techniques. A detailed review of the actual debriefs reveals that each returnee was asked questions designed to elicit detailed statements regarding their treatment during captivity and all possible law of war violations committed.

C. (U) THE LAW OF WAR AND IRAQ'S TREATMENT OF U.S. POWs

1. (U) Introduction

Iraq was obligated to comply with all of the GPW's standards for the treatment of captured military personnel.[8]

Each of the twenty-one American service members eventually released by Iraq was entitled to the protections provided by the GPW because the Persian Gulf War was considered an "armed conflict" between the United States and Iraq, two of the High Contracting

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[8] As to those PWs who were wounded and sick and fell into enemy hands, the Geneva Convention Relative to the Treatment of the Wounded and Sick (GWS) and the GPW were applicable. Article 14, GWS.

/...

Parties to that Convention.[7] Article 1[8] obliges the parties to apply the GPW. The twenty-one service members captured by Iraq were "members of the armed forces"[9] of the United States and were entitled to the protection afforded them by the GPW "from the time they [fell] into the power of the enemy and until their final release and repatriation."

Iraq's compliance with the GPW was mixed. The day after the air war began on 16 January 1991, Saddam Husayn promised to treat captured soldiers in accordance with the GPW. However, on 28 January 1991, while being interviewed by Peter Arnett on CNN, Saddam sought to rationalize his failure to treat U.S. POWs in accordance with the GPW on the alleged grounds that Iraqi students in the West had been interned and that other Iraqis in the West were suffering restrictions on their movements. Saddam asked, "Does the Geneva Convention allow Iraqi students to be imprisoned in the West?"

Many of the POWs were called war criminals by their captors and threatened with execution as such. When POW 17 (WCDC File 176.17) refused to divulge his home address on the ground that the GPW did not require it, his captors told him that the Convention did not apply because he was a war criminal and was not in a declared war. POW 12's (WCDC File 176.12) interrogators threatened to execute him as a war criminal when he initially refused to make a video. POW 18 (WCDC File 176.18) was called a war criminal by one of his interrogators. POW 21 (WCDC File 176.21) was told that he would be sentenced to death for his crimes against the Iraqi people. POW 9 (WCDC File 176.9) was told that if he did not divulge information about his aircraft and radar, he would not be considered a POW any more. POW 19 (WCDC File 176.19) was informed by the "Voice" during interrogation that he was a war criminal and that the "Voice" could do anything with him, including execute him.

Iraq committed multiple violations of the GPW, the most serious of which are set forth below.

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[7] "[T]he present Convention shall apply to all cases of ...armed conflict which may arise between two or more of the High Contracting Parties." Art. 2, GPW.

[8] "The High Contracting Parties undertake to respect and to ensure respect for the present Convention in all circumstances Art. 1, GPW.

[9] "Prisoners of war...are persons belonging to one of the following categories, who have fallen into the power of the enemy
(1) Members of the armed forces of a Party to the conflict.
Art. 4, GPW.

/...

ARTICLE 13

Prisoners of war must at all times be humanely treated. Any unlawful act or omission by the Detaining Power causing death or seriously endangering the health of a prisoner of war in its custody is prohibited and will be regarded as a serious breach of the present Convention.

. . . .

Likewise, prisoners of war must at all times be protected, particularly against acts of violence or intimidation and against insults and public curiosity.

. . . .

ARTICLE 14

Prisoners of war are entitled in all circumstances to respect for their persons and their honor.

Women shall be treated with all the regard due to their sex and shall in all cases benefit by treatment as favorable as that granted to men.

. . . .

Articles 13 and 14, read together, not only forbid physical and psychological abuse of POWs, but also charge the Detaining Power with the affirmative duty of protecting POWs from such abuse as well as from insults and disrespect.

Although most American POWs were treated kindly and properly from time to time by individual Iraqis, the government of Iraq, particularly its security apparatus, went out of its way to violate the letter and spirit of Articles 13 and 14. Below is a list of violations of Articles 13 and 14 (violations of other articles of the GPW will be discussed under those other articles).

2. (U) Physical Abuse

Although physical abuse of the POWs often occurred during Iraqi attempts to secure information from them (see discussion under Article 17), on many occasions the POWs were physically and mentally abused simply because their captors felt like abusing them. All of the POWs suffered physical abuse which did not occur during interrogation:

POW 1 (WCDC File 176.1) - exhibited at Iraqi checkpoints as war prize; captors pretended to urinate on him; beaten constantly during transport, including to the rhythm of a song on the radio.

POW 2 (WCDC File 176.2) - abandoned by captors despite broken leg (but other captors put Arab headdress on him to protect him from civilians).

POW 3 (WCDC File 176.3) - beatings and kicks while being transported; punched in face, hit in the head with rifle; kicked by guards in circle; injured leg beaten severely with lead pipe; mud from guards' boots smeared on face; multiple cigarette burns.

POW 4 (WCDC File 176.4) - dragged by hair and kicked by captors; sexually molested during transport; slapped, and spat upon; threatened with death.

POW 5 (WCDC File 176.5) - kicked and slapped; AK-47 shoved in throat while coming to the aid of another POW; kicked and spat upon; injured leg beaten; "karate chops" to neck; threatened with death.

POW 6 (WCDC File 176.6) - paraded with another POW through jeering, violent crowd; videotaped twice.

POW 7 (WCDC File 176.7) - routinely "karate-chopped"; forced to make videotape.

POW 8 (WCDC File 176.8) - videotaped twice; beaten.

POW 9 - beaten with fists, batons, riflebutts; kicked in head and legs; beaten to rhythm of song; knocked unconscious many times; forced to make videotape; beaten in stomach and back with club, resulting in long-term pain to kidneys; eye injury from beatings.

POW 10 (WCDC File 176.10) - beaten frequently in prison and during transport; gun held to head while trying to protect another POW; kicked in stomach, videotaped.

POW 11 (WCDC File 176.11) - slapped; videotaped.

POW 12 - videotaped twice; hit constantly on back of head with heavy ring worn by guard; hit by guard and threatened with death if his cellmate did not obey orders.

POW 13 (WCDC File 176.13) - hit with fists, kicked and assaulted with riflebutts; videotaped 3 times; thinks he may have been tricked while blindfolded into being filmed urinating on American flag.

POW 14 (WCDC File 176.14) - broken vertebrae from beating when he and another POW were caught signaling to a third prisoner.

POW 15 (WCDC File 176.15) - beaten on frequent occasions; struck in the head when he asked for a cigarette; and whipped with a belt.

POW 16 (WCDC File 176.16) - abandoned by captors despite serious injuries; exhibited as trophy to troops and general populace; a Major threatened to kill him.

/...

POW 17 - assaulted during capture; kicked down steps, causing broken nose; urinated upon by guards; exhibited to friends of guards; made two videotapes.

POW 18 - beaten and punched in head when taken captive; displayed to spectators, who struck him and spat upon him; assaulted with riflebutts; severe beating with rubber truncheon; called a war criminal; videotaped.

POW 19 - beaten with loaded AK-47 and knife around throat by Bedouin captors; exhibited to civilians; had loaded gun pulled on him and received blow that dislocated jaw after he made video; beaten after allied bombing attack.

POW 20 (WCDC File 176.20) - videotaped twice; spat upon.

POW 21 - struck and spat upon during transport; struck with rubber hose while awaiting interrogation; assaulted when he roamed POW camp after it was bombed; videotaped twice.

ARTICLE 15

The Power detaining prisoners of war shall be bound to provide free of charge for their maintenance and for the medical attention required by their state of health.

Many articles in the GPW set forth the standards for medical care and conditions of confinement which the Detaining Power must provide to POWs (articles other than Article 15 will be discussed separately).

Iraqi soldiers generally complied with Article 15, although on several occasions, they would first beat and kick a POW and then render first aid for any pre-capture injuries. It also must be noted that even when the Iraqis rendered medical care, their torture and physical abuse of most of the American POWs was certainly inconsistent with the spirit of Article 15.

Most of the POWs with ejection injuries received prompt first aid; however, one POW who was fired upon and wounded severely in the chest and stomach while trying to escape his captors, did not receive medical care for forty-eight hours. The Iraqis did perform medical operations for seriously injured POWs: a POW's broken leg was splinted three times; another had broken arms which were operated upon; and a third received an external fixation device for his severely injured leg (U.S. doctors have noted that this operation was a very expensive one for the Iraqis to perform).

As a general rule, the Iraqis saved or confiscated painkillers for their own troops, but did not stint on antibiotics and other pharmaceuticals. Most American POWs found Iraqi medical personnel and hospitals quite adequate and professional, and in the cases of at least two POWs very good.

ARTICLE 16

All prisoners of war shall be treated alike by the Detaining Power, without any adverse distinction based on race, nationality, religious belief or political opinions or any other distinction founded on similar criteria.

At least six American male POWs were "accused" or suspected of being Jewish by the Iraqis and underwent circumcision inspections and other forms of physical and psychological harassment as a result (one reason for this abuse other than some of the POWs' dark complexions was that the Iraqis seemed to believe that Israelis were piloting U.S. warplanes).

POW 21 related one incident when, after having already been accused of being Jewish, he was told one afternoon that he would be executed that very evening. He was then asked whether he wanted to go to a Protestant or Catholic church to make his peace with God. He believes that the Iraqis were trying to trick him into saying that he wanted to go to a synagogue instead. POW 7 reported that he became quite uneasy when he was quizzed on Christian doctrine (which he said is not one of his strong points) because he was suspected of being Jewish. The prevalence of this harassment implies an intention by the Iraqis to treat Jews more severely than POWs from other ethnic backgrounds (a black POW, did not report any racial harassment).

ARTICLE 17

Every prisoner of war, when questioned on the subject, is bound to give only his surname, first names and rank, date of birth, and army, regimental, personal or serial number, or failing this, equivalent information.

. . . .

No physical or mental torture, nor any other form of coercion, may be inflicted on prisoners of war to secure from them information of any kind whatever. Prisoners of war who refuse to answer may not be threatened, insulted, or exposed to unpleasant or disadvantageous treatment of any kind.

. . . .

All of the male POWs except two reported physical abuse or torture during interrogation. Typically, the POWs were tortured when they refused to answer questions such as:

-- the types of weapons carried on a pilot's aircraft;

-- where aircraft was located;

- mission dates and targets;
- characteristics of aircraft flown;
- tactical questions;
- order of battle;
- geocoordinates of various facilities in Saudi Arabia;
- when the ground war would begin; and
- the name of the pilot who bombed the Amiriyah bomb shelter.

The abuse or torture during interrogation included:[10]

POW 1 - multiple beatings with sap mitts, blackjacks, batons, rifle butts, and fists; death threats; an interrogator stood on his stomach while his hands were bound behind his back; soldiers pretended to urinate on him; a gun was placed next to his head, throat, temple, and mouth; a pistol was dry-fired in his mouth; a rifle was aimed at his heart.

POW 2 - hit on legs, including broken leg, and neck with heavy pendulum-like object (he felt that his skull was going to crack and that he was going to lose consciousness); burned with cigarettes; struck on one of his eyeballs; other frequent beatings.

POW 3 - general beatings with fists, weighted rubber hose, stick, and ax handles; kicks; pistol-whipped with loaded gun; threatened with dismemberment; beatings resulted in fractured rib and left tibia.

POW 5 - punched; struck with Browning 9mm pistol; threatened with dismemberment and death; interrogator tried to set his blindfold on fire.

POW 7 - during interrogation by the "Voice," struck on right ear three times, perforating eardrum; beaten with mallet on both knees, including injured right knee; during second interview with the "Voice," death threat and pistol fired next to ear; routinely beaten and "karate-chopped."

POW 9 - beaten so severely at "Army Camp," feared for life; threatened with loss of POW status; loaded weapon placed to head:

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[10] An article in *The Washington Times* dated October 17, 1991, reported that five British Special Air Service regiment commandos said that their Iraqi interrogators tore out their fingernails, burned their legs, and beat them severely.

/...

"I will kill you. I have not shot my weapon in ten days"; threatened with dismemberment; routinely beaten with fists and rifle butts during interrogations; sustained eye injury from beatings.

POW 10 - repeatedly hit in ear with closed fist or punched in stomach; arms pinned and stomach, chest, and face severely beaten for refusing to answer questions.

POW 12 - assaulted twice with cattle prod; beaten with hard rubber stick while being interrogated by the "Voice"; assaulted with stun gun; AK-47 placed against head and threatened with execution as war criminal; threatened with dismemberment; shocked with "Talkman"; multiple beatings.

POW 13 - struck with hands, fists, wooden club, blackjack, and sticks; punctured eardrums; loosened teeth from beatings; beaten so severely at times that he could not stand or walk afterwards.

POW 14 - struck seventy to one hundred times with rubber hose and hit in ear with cupped hands over twenty times in two to three hour interrogation; automatic pistol dry-fired next to ear.

POW 15 - hit on hand; kicked; back and thighs whipped with belt.

POW 16 - threatened with castration and spat upon.

POW 17 - called war criminal when he refused to divulge home address; pistol-whipped; mock execution by firing squad filmed during interrogation; beaten severely with 4' long bamboo stick; perforated eardrum; assaulted with cattle prod; beaten with cat o'nine tails; threatened with death if he did not tell "something new."

POW 18 - threatened with death twice; struck on back of head with rifle butt; hit, kicked, punched in stomach, and upon collapsing, had head ground into floor by foot of interrogator; eardrum perforated; cocked automatic pistol placed next to head.

POW 19 - beaten severely with weighted rubber hose during 18 hours of interrogation by the "Voice," who called him a war criminal; tortured with "Talkman."

POW 20 - flogged with cat o'nine tails during interrogation; hit on side of head with worry beads; cigarette extinguished on back of hand.

POW 21 - slapped, "karate-chopped," and struck on legs with weighted rubber hose during interrogations; told he must give "valuable information" in order to live.

/...

ARTICLE 18

All effects and articles of personal use...shall remain in the possession of prisoners of war....

Generally, all of the POWs' personal possessions, including money, were taken from them and not returned.

ARTICLE 19

Prisoners of war shall be evacuated as soon as possible after their capture, to camps situated in an area far enough from the combat zone for them to be out of danger.

. . . .

Prisoners of war shall not be unnecessarily exposed to danger while awaiting evacuation from a fighting zone.

ARTICLE 20

The evacuation of prisoners of war shall always be effected humanely and in conditions similar to those for the forces of the Detaining Power in their changes of station.

The Detaining Power shall supply prisoners of war who are being evacuated with sufficient food and potable water, and with the necessary clothing and medical attention. The Detaining Power shall take all suitable precautions to ensure their safety during evacuation, and shall establish as soon as possible a list of the prisoners of war who are evacuated.

. . . .

Both POW 2 and POW 16 were abandoned by their original captors. POW 2, who had a broken leg, was abandoned without food or his survival kit. POW 16 was abandoned with leg injuries so severe that he could not crawl to a destroyed building for shelter. Both men were recaptured.

During two coalition air attacks after POW 10 and POW 11 were captured, the Iraqis left the already injured POW 10 exposed to fire in their vehicle when they and POW 11 took shelter. Only when POW 11 refused to leave the vehicle without POW 10 during a third attack did the Iraqis move him about twenty meters from the vehicle. POW 10 incurred a shrapnel wound from the bombing.

3. (U) Living Conditions

ARTICLE 22

Prisoners of war may be interned only in premises located on land and affording every guarantee of hygiene and healthfulness. Except in particular cases which are justified by the interest of the prisoners themselves, they shall not be interned in penitentiaries.

. . . .

After the 23 February bombing of one POW compound, all POWs were relocated to two prisons. Housing the POWs in these penitentiaries expressly violates Article 22. See Articles 25 through 31 infra for a discussion of the POWs' living conditions.

ARTICLE 23

No prisoner of war may at any time be sent to, or detained in areas where he may be exposed to the fire of the combat zone, nor may his presence be used to render certain points or areas immune from military operations.

. . . .

Detaining Powers shall give the Powers concerned, through the intermediary of the Protecting Powers, all useful information regarding the geographical location of prisoner of war camps

. . . .

On January 21, 1991, Baghdad Radio announced that because the allied coalition was allegedly bombing scientific and cultural centers, allied POWs would be placed in strategic sites.

Iraq kept its promise. One POW stated that he knew that they would be an allied target because the place where they were held was "crawling with military." The POWs were evacuated from one building and, while corraled in its courtyard, had to take shelter because of two more bombing raids. They were transferred to another facility which, even though presumably not a strategic site, was in the immediate vicinity of bombing raids that took place on 26 February.

Iraq never informed the United States of the POWs' geographical location.

ARTICLE 25

Prisoners of war shall be quartered under conditions as favorable as those for the forces of the Detaining Power who are billeted in this same area. The said conditions shall make allowance for the habits and customs of the prisoners and shall in no case be prejudicial to their health.

The foregoing provisions shall apply in particular to the dormitories of prisoners of war as regards both total surface and minimum cubic space, and the general installations, bedding and blankets.

The premises provided for the use of prisoners of war individually or collectively, shall be entirely protected from dampness and adequately heated and lighted....

ARTICLE 26

The basic daily food rations shall be sufficient in quantity, quality and variety to keep prisoners of war in good health and to prevent loss of weight or the development of nutritional deficiencies.

. . . .

Sufficient drinking water shall be supplied to prisoners of war.

. . . .

ARTICLE 27

Clothing, underwear and footwear shall be supplied to prisoners of war in sufficient quantities by the Detaining Power, which shall make allowance for the climate of the region where the prisoners are detained.

. . . .

ARTICLE 29

The Detaining Power shall be bound to take all sanitary measures necessary to ensure the cleanliness and healthfulness of camps and to prevent epidemics.

. . . .

Prisoners of war shall be provided with sufficient water and soap for their personal toilet....

ARTICLE 30

Every camp shall have an adequate infirmary where prisoners of war may have the attention they require, as well as appropriate diet.

. . . .

ARTICLE 31

Medical inspections of prisoners of war shall be held at least once a month....Their purpose shall be, in particular, to supervise the general state of health, nutrition and cleanliness of prisoners and to detect contagious diseases, especially tuberculosis, malaria, and venereal disease.

. . . .

Articles 25 through 31 set out minimal requirements for material conditions of confinement due POWs. Iraq honored them more in their breach than in their observance (the only POWs whose treatment approached Convention standards were those who were seriously injured).

Living conditions at the five prisons at which the U.S. POWs were held varied from relatively decent to inhumane:

(a) Although the POWs received some of their worst beatings and torture at one particular facility, their living conditions were adequate at this facility. They were fed three times a day (porridge for breakfast, soup for lunch, fatty lamb broth for dinner, occasional oranges). The POWs could communicate at night after the guards left and could occasionally exercise. They were given yellow POW suits and received necessary medical treatment.

(b) Another facility was described by several POWs as resembling a hospital mental ward. Most of the POWs were U.S. Air Force, Marine Corps, and Navy pilots, most were subject to extensive torture.

All of the POWs reported harsh living conditions at odds with the mandates of the GPW. They described the cells as extremely cold and barren except for a toilet and shower, many of which were nonfunctional. The POWs were not issued adequate clothing, blankets, or bedding to protect themselves against the cold. They suffered extreme food deprivation: the POWs' meals consisted of greasy tomato broth (one called it "blood soup") once a day and water once a day, both served in the same bowl that they had no means of cleaning. Some POWs reported going several days at a time without any food or water. Weight losses of 25-30 pounds were reported by several POWs. When drinking water was available, it was rationed (as a result of Coalition bombing, there was no running water at this particular location); the POWs received no water for hygienic purposes.

A few POWs were kept in solitary confinement, including one who states that he experienced five or six hallucinations as a result. Medical inspections were held solely to determine if the POWs were circumcised. No communications between the POWs were allowed or possible, either by speech or tap code. The harsh living conditions at this location, a strategic site, and the torture inflicted upon the POWs imprisoned there violate the letter and spirit of the GPW, especially of Articles 25 to 31 above.

(c) A third location was described as a typical high-security prison. It consisted of two 2-story buildings separated by an open courtyard. Each building had an elevated cellblock with walkways and an atrium with a vented, steel-barred skylight. Most of the POWs reported slightly improved conditions of confinement, even though some complained of extremely cold cells and no lighting (the guards carried lanterns).

The food, generally consisting of tomato stew three times a day, bread, and tea, was better. Water was plentiful. However, the drinking and non-potable water containers were switched, so that all of the POWs became infected with dysentery, some quite severely. Medical treatment was provided. Because guards infrequently escorted the POWs to the toilet facilities, they evacuated in their cells, using plastic bags that were intended to keep the windows insulated from the cold.

The POWs, after spending their first night in one cell and exchanging their stories, were initially housed one to a cell, but were doubled up after Egyptian POWs were brought in. They were forbidden to talk with prisoners other than their cellmates.

(d) The fourth location was a small, windowless two-story concrete building with a central courtyard topped with barbed wire. A water tank was in the courtyard from which the POWs themselves drew their water supply. Although the guards offered to place the POWs in separate cells, the POWs requested that they be housed in the same 10' x 15' cell. The cell had a one-hole toilet and a nonfunctioning sink. The guards gave the POWs 20 blankets and pillows. Even though the facility had power, the POWs' cell was unlighted.

The POWs reported that the food, of which they had "plenty," improved. The guards who wore civilian clothes were "nice," and a a doctor who said that he was a Christian examined POWs who were sick.

(e) A fifth facility was a regular Iraqi Army outpost.

It was a square building with a 50' by 50' central courtyard. It had no electricity until 4 March, so the guards used lanterns during their evening rounds.

The POWs reported that food, consisting of three meals a day, unlimited bread and cheese, and fruit snacks, improved in quantity and in nutritional quality. One POW said, in retrospect, that the Iraqis were probably fattening them up prior to release. Attentive medical care was provided. The prisoners got foam mattresses, sufficient blankets, and new POW suits. They could shower and were shaved with new razors. Although there were no toilets in their cells, guards escorted the POWs to the latrine upon request. The guards, who were military, were courteous to the POWs and allowed them to talk to each other.

The record of Iraq's treatment of the POWs is mixed. Although the prisons in which they were confined were too close to bombing targets to comply with the GPW, with the exception of deplorable sanitation practices, the Iraqi military attempted to treat the POWs reasonably well under onerous wartime conditions. On the other hand, the POWs' treatment while in the hands of Iraqi intelligence and Ba'ath Party personnel was barbarous, cruel, and in clear violation of the GPW.

4. (U) State Responsibility

ARTICLES 69-78 - Relations of Prisoners of War with the Exterior

ARTICLE 69

Immediately upon prisoners of war falling into its power, the Detaining Power shall inform them and the Powers on which they depend, through the Protecting Power, of the measures taken to carry out the provisions of the present Section.

. . . .

ARTICLE 70

Immediately upon capture, or not more than one week after arrival at a camp, even if it is a transit camp, likewise in case of sickness or transfer to hospital or to another camp, every prisoner of war shall be enabled to write direct to his family, on the one hand, and to the Central Prisoners of War Agency provided for in Article 123, on the other hand, a card similar, if possible, to the model annexed to the present Convention, informing his relatives of his capture, address and state of health. The said cards shall be forwarded as rapidly as possible and may not be delayed in any manner.

ARTICLE 71

Prisoners of war shall be allowed to send and receive letters and cards.

. . . .

ARTICLE 78

[Prisoners of war] shall...have the unrestricted right to apply to the representatives of the Protecting Powers either through their prisoners' representative or, if they consider it necessary, direct, in order to draw their attention to any points on which they may have complaints to make regarding their conditions of captivity.

. . . .

Articles 69 through 77 set forth the obligations for contact with the "exterior." Article 70 requires the Detaining Power to permit "every prisoner of war" to write his family and to submit a "capture card" to the International Committee of the Red Cross (ICRC) informing his relatives of the capture and the state of his health.

Iraq failed to comply with that reporting obligation. The United States had established the National Prisoner of War Information Center (NPWIC) as its point of contact with the ICRC regarding American POWs and Iraqi EPWs. NPWIC has verified that Iraq "provided no information regarding US or coalition POWs" during hostilities. (WCDC File 43).

Moreover, the "ICRC was unable to ascertain the number or identities of US or coalition POWs throughout the conflict, despite requests to the government of Iraq for information." (WCDC File 43). Information became available only after the cessation of hostilities when the initial exchange of prisoners took place. Iraq also used fake ICRC representatives to elicit information from the POWs, but never complied with the POWs' requests to meet with ICRC, Red Cross, or Red Crescent personnel, or with their requests to fill out capture cards.

ARTICLE 12

Prisoners of war are in the hands of the enemy Power, but not of the individuals or military units who have captured them. Irrespective of the individual responsibilities that may exist, the Detaining Power is responsible for the treatment given them.

. . . .

The Government of Iraq was responsible for criminal violations of the law of war respecting the POWs' mistreatment by their captors where such mistreatment was centrally directed.[11] This doctrine, known as "state responsibility" under the GPW and "command responsibility" in U.S. military parlance, states that a commander, including the national leadership, will be criminally responsible for violations of the law of war if (1) he orders or acquiesces in the commission of the offense; or (2) knew or should have known of the offensive act, could have prevented or stopped it, and failed to take all measures to prevent the act or to prevent it from reoccurring.

Saddam's complete and pervasive control of his military as well as objective evidence of that control in the form of orders signed by him or issued under his authority show that the charged violations of the GPW were committed as a result of his orders, were carried out with his knowledge and approval, or were acts of which he should have had knowledge.

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[11] Examples of criminal violations for which no evidence of central direction exists were several incidents of Iraqis firing at descending U.S. pilots who had ejected from their aircraft. Article 23(c) of Hague Convention IV prohibits "wound[ing] an enemy who, having laid down his arms, or having no longer means of defence, has surrendered at discretion." Unlike Hitler who, towards the end of World War II, ordered firing at descending British pilots, Saddam offered rewards of $20,000 to $30,000 for captured American pilots.

ARTICLE 130

Grave breaches...shall be those involving any of the following acts, if committed against persons or property protected by the Convention: wilful killing, torture or inhuman treatment, including biological experiments, wilfully causing great suffering or serious injury to body or health, compelling a prisoner of war to serve in the forces of the hostile Power, or wilfully depriving a prisoner of war of the rights of fair and regular trial prescribed in this Convention.

ARTICLE 131

No High Contracting Party shall be allowed to absolve itself or any other High Contracting Party of any liability incurred by itself or by another High Contracting Party in respect of breaches referred to in the preceding Article.

Iraq committed numerous grave breaches of the GPW with regard to its treatment of U.S. POWs during the Persian Gulf War. As summarized above, most of the male POWs endured torture and inhumane treatment, "causing great suffering or serious injury".

Because of Iraq's commission of these grave breaches of the GPW, all nations party to the GPW have universal jurisdiction over Iraq and have an unwaivable affirmative duty to locate and try the perpetrators of these war crimes.

III. (U) IRAQI TREATMENT OF PROTECTED PERSONS AND THE OCCUPATION OF KUWAIT[12]

A. (U) INTRODUCTION

The 1949 Geneva Convention Relative to the Protection of Civilian Persons in Time of War (GC) provides protection to several categories of civilians. When Iraq invaded and occupied Kuwait on August 2, 1990, Kuwaiti nationals in both Iraq and Kuwait became "protected persons" under the terms of the GC. Once Iraq refused to allow non-Kuwaiti foreign nationals to leave Iraq or Kuwait, they too became "protected persons." Despite the clear applicability of the GC, Iraq's foreign minister in September, 1990, denied that the GC applied to the foreign nationals trapped in Kuwait and Iraq. Additionally, Iraq never admitted that it was an Occupying Power in Kuwait and never abided by the GC's rules for occupying powers.

The United Nations affirmed the applicability of the GC when the U.N. Security Council passed RES 666 (September 13, 1990), stating that Iraq retained full responsibility for "the safety and well-being of third State nationals" under international humanitarian law including, where applicable, the Fourth Geneva Convention (GC). Moreover, U.N. Security Council RES 670 (September 25, 1990) and RES 674 (October 29,1990) reiterated "that the Fourth Geneva Convention applies to Kuwait" and that Iraq is bound to comply with it "and in particular is liable under the Convention in respect of the grave breaches committed by it, as are individuals who commit or order the commission of grave breaches." Iraq was therefore on notice in September that it was bound by the GC in its treatment of foreign nationals in Iraq and Kuwait and that it had to meet the requirements imposed on Occupying Powers by the Convention. In spite of this, Iraq committed the following violations of the GC.

B. (U) MEDICAL CARE IN OCCUPIED KUWAIT

Article 18

Civilian hospitals organized to give care to the wounded and sick, the infirm and maternity cases...shall at all times be respected and protected by the Parties to the conflict.

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[12] The Articles of the GC in this section are grouped by subject matter. Individual accounts by hostages/human shields relating to Geneva Convention violations and their personal experiences during the pre-war period are found in Amnesty International's report, "IRAQ/OCCUPIED KUWAIT: Human Rights Violations Since August 2, 1990" (December 1990), WCDC File 177, and the WCDC database.

Article 20

Persons regularly and solely engaged in the operation and administration of civilian hospitals, including the personnel engaged in the search for, removal and transporting of and caring for wounded and sick civilians, the infirm and maternity cases, shall be respected and protected.

. . . .

Article 56

To the fullest extent of the means available to it, the Occupying Power has the duty of ensuring and maintaining, with the cooperation of national and local authorities, the medical and hospital establishments and services, public health and hygiene in the occupied territory, with particular reference to the adoption and application of the prophylactic and preventive measures necessary to combat the spread of contagious diseases and epidemics. Medical personnel of all categories shall be allowed to carry out their duties.

. . . .

Article 57

The Occupying Power may requisition civilian hospitals only temporarily and only in cases of urgent necessity for the care of military wounded and sick, and then on condition that suitable arrangements are made in due time for the care and treatment of the patients and for the needs of the civilian population for hospital accommodation.

The material and stores of civilian hospitals cannot be requisitioned as long as they are necessary for the needs of the civilian population.

As indicated in the cited Articles, as an Occupying Power, Iraq had certain responsibilities to ensure medical care for the protected persons in Kuwait. However, Iraq's invasion effectively eliminated medical care for citizens and residents of Kuwait. Iraq clearly violated Articles 18, 20, 56, and 57 of the GC. Evidence of the following violations and atrocities was collected. Many of those atrocities were also reported to Amnesty International and are contained in its reports.

When Iraq invaded Kuwait, Kuwaiti doctors were deported to Iraq and replaced by Iraqi interns (WCDC Files 177.3169, 177.3081). Nurses, many of whom were Kuwaitis and Filipinas, had to work long hours without pay and were raped by Iraqi soldiers at night (WCDC File 177.3022).

Medical equipment was taken from Kuwaiti hospitals and sent to Iraq, while hospitals dedicated to medical treatment of Iraqi soldiers remained fully equipped (WCDC File 177.3022). Equipment and items taken included hospital beds (WCDC File 177.3001), incubators, x-ray machines, laboratory equipment, cancer research data (WCDC File 177.3493), sterilization equipment (WCDC File 177.3487), insulin, ambulances (WCDC File 177.3586), and life support and dialysis machines (WCDC File 177.3081). All blood banks were emptied (WCDC Files 177.3166, 177.3493); the Iraqis ffequently broadcast requests for blood donations (WCDC File 177.3155) and allegedly forced people to give blood involuntarily (WCDC File 177.3169).

Some civilian hospitals were only allowed to admit Iraqis (WCDC File 177.3493). Clinics near Iraqi military bases in Kuwait were closed to the public and used only to treat military personnel (WCDC File 177.3028). Few hospitals remained open to treat Kuwaitis. One individual stated that as of October 1990, no Kuwaitis received medical care at any hospitals (WCDC File 3278). Wounded Kuwaitis were not treated and were left outside hospitals to die; resistance fighters were found lying outside hospitals with bullet wounds in their heads (WCDC File 3155).

Debriefees reported a variety of medical-related atrocities. One Kuwaiti doctor was murdered because an Iraqi soldier whom he treated died (WCDC File 177.3166). Many reports confirm that babies were indeed removed from incubators (WCDC File 177.3123), thrown to the ground, and left to die (WCDC File 177.3010). Adults were taken off life support and dialysis machines (WCDC File 177.3105) and left to die. One ambulance driver who was transporting a hemorrhaging pregnant patient had the ambulance stolen by the Iraqis. He and the woman were left on the road. The woman died (WCDC File 177.3586). An American woman saw a pregnant Kuwaiti impaled on a bayonet by a hospital wall. She wore a sign in Arabic saying that other females who attempted to receive treatment at the hospital would meet the same fate (WCDC File 177.3010). One debriefee reported seeing seven to ten tortured, dead Kuwaitis brought into Sabah Hospital every day (WCDC File 177.3580).

As the occupation continued, the only means by which Kuwaitis could receive medical treatment was provided by resistance doctors (WCDC Files 177.3155, 177.3022). Many Kuwaitis, who were too afraid to go to the hospitals to seek treatment, suffered from this lack of medical care (WCDC File 177.3171).

1. Medicine and Food Supplies

Article 23

Each High Contracting Party shall allow the free passage of all consignments of medical and hospital stores...intended only for civilians of another High Contracting Party, even if the latter is its adversary. It shall likewise permit the free passage of all consignments of essential foodstuffs, clothing and tonics intended for children under fifteen, expectant mothers and maternity cases.

. . . .

Article 55

To the fullest extent of the means available to it, the Occupying Power has the duty of ensuring the food and medical supplies of the population; it should, in particular, bring in the necessary foodstuffs, medical stores and other articles if the resources of the occupied territory are inadequate.

The Occupying Power may not requisition foodstuffs, articles or medical supplies available in the occupied territory, except for use by the occupation forces and administration personnel, and then only if the requirements of the civilian population have been taken into account. Subject to the provisions of other international Conventions, the Occupying Power shall make arrangements to ensure that fair value is paid for any requisitioned goods.

The Protecting Power shall, at any time, be at liberty to verify the state of the food and medical supplies in occupied territories, except where temporary restrictions are made necessary by imperative military requirements.

All prescription medicines were confiscated by the Iraqis (WCDC File 177.3087). Because of Iraqi actions, insulin and syringes were unavailable by 1 September 1990 (WCDC File 177.3438). Antibiotics, anesthesia, and tetanus vaccines were either in short supply or totally depleted (WCDC File 177.3326). There was a shortage of baby formula and diapers (WCDC Files 177.3081, 177.3487).

2. Food and Other Necessities

After the invasion, there was a lot of panic buying and hoarding (WCDC Files 177.3045; 177.3005). Iraqis confiscated any food and other goods that they wanted (WCDC Files 177.3169, 177.3493). Some Iraqis would come to Kuwait, take food and other goods from stores without paying, and return to Iraq to sell it (WCDC File 177.3001). Neighborhoods with resistance activity had their water and electricity cut off (WCDC Files 177.3123, 177.3493).

Iraqi soldiers confiscated food at Kuwaiti ports and took it back to Iraq (WCDC File 177.3142). Although food cooperatives distributed food for a period of time, by the beginning of October, all food in Kuwait was being shipped to Iraq (WCDC File 177.3005). At that point, there was so little food in Kuwait that even Iraqi soldiers were going hungry (WCDC File 177.3005).

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C. (U) TORTURE IN OCCUPIED KUWAIT

Article 27

Protected persons are entitled, in all circumstances, to respect for their persons, their honour, their family rights, their religious convictions and practices, and their manners and customs. They shall at all times be humanely treated, and shall be protected especially against all acts of violence or threats thereof and against insults and public curiosity.

Women shall be especially protected against any attack on their honour, in particular against rape, enforced prostitution, or any form of indecent assault.

Without prejudice to the provisions relating to their state of health, age and sex, all protected persons shall be treated with the same consideration by the Party to the conflict in whose power they are, without any adverse distinction based, in particular, on race, religion or political opinion.

However, the Parties to the conflict may take such measures of control and security in regard to protected persons as may be necessary as a result of the war.

Article 32

The High Contracting Parties specifically agree that each of them is prohibited from taking any measure of such a character as to cause the physical suffering or extermination of protected persons in their hands. This prohibition applies not only to murder, torture, corporal punishment, mutilation and medical or scientific experiments not necessitated by the medical treatment of a protected person, but also to any other measures of brutality whether applied by civilian or military agents.

Iraq's violations of Articles 27 and 32 were especially heinous. Torture of Kuwaiti nationals was widespread and barbarous.[13] The tortures include: beatings on all parts of the body with various implements, including beating people while they were suspended; breaking appendages; knifings; extracting finger and toenails; boring holes in bodies with drills; cutting off tongues and ears, and cutting off other body parts with saws; eye gougings; castrations; hammering nails into hands; shootings; rapes; inserting broken bottle necks into rectums; pumping air or gasoline through people (and then igniting the gasoline so that the bodies exploded); electric shocks; burning people by extinguishing cigarettes on them; pouring acid on skin; mock executions; and forcing detainees to watch the torture of others or rape of relatives. Asian and Kuwaiti women were routinely raped by Iraqi soldiers.

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[13] The reader is referred to Amnesty International's report, Iraq/Occupied Kuwait: Human Rights Violations Since August 2, 1990, for a comprehensive account as of December, 1990.

Iraqis showed great disrespect for the religious and cultural practices of their fellow Muslims. They raped Kuwaiti women, including virgins, knowing that no one would marry them after their defilement and knowing that abortion is illegal under Islamic law. They required Kuwaiti families to pay for the bullets used to shoot their young men in their families' presence and to pay burial costs. The Iraqis refused to allow Kuwaitis to perform funeral rites.

Article 31

No physical or moral coercion shall be exercised against protected persons, in particular to obtain information from them or from third parties.

Section IV of this Report provides the most detailed accounts by Kuwaitis who were tortured during interrogation. Torture was administered during interrogation to gain information about the Kuwaiti resistance or the whereabouts of Kuwaiti military personnel. There is no evidence that the American "human shields" were tortured or interrogated.

D. (U) ADDITIONAL VIOLATIONS OF IRAQ'S DUTIES AS AN OCCUPYING POWER

Article 33

No protected person may be punished for an offence he or she has not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited.

Pillage is prohibited.

Reprisals against protected persons and their property are prohibited.

Violations of Article 33's prohibition against collective penalties and reprisals against protected persons include Iraq's mass executions of Kuwaiti civilians and soldiers who had surrendered after the invasion, detaining hostages and human shields, the mass transfer of Kuwaitis to Iraq (2,000 Kuwaitis remained in Iraq as of January 1992), and destroying whole buildings from which a resistance gunshot was thought to have been fired.

/...

Iraq pillaged Kuwait "lock, stock, and barrel." Iraq pillaged medical equipment, food, lampposts, macadam, automobiles, airplanes, yachts, artworks, shrouds, burial equipment, and consumer goods such as televisions and VCRs (WCDC Files 177.3155, 177.3169; 177.3356; 177.3507; 177.3586).

The Iraqi soldiers exacted reprisals against families of resistance members they captured or knew about by burning down their homes or interrogating and torturing them (see Amnesty International Report).

Article 49

Individual or mass forcible transfers as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motive.

Nevertheless, the Occupying Power may undertake total or partial evacuation of a given area if the security of the population or imperative military reasons so demand.

. . . .

The Occupying Power undertaking such transfers or evacuations shall ensure, to the greatest practicable extent, that proper accommodation is provided to receive the protected persons, that the removals are effected in satisfactory conditions of hygiene, health, safety and nutrition, and that members of the same family are not separated.

The protecting Power shall be informed of any transfers and evacuations as soon as they have taken place.

The Occupying Power shall not detain protected persons in an area particularly exposed to the dangers of war unless the security of the population or imperative military reasons so demand.

The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies.

An estimated 8,000 Kuwaitis were deported to Iraq during the course of the occupation; as of January 1992, over 2,000 Kuwaitis remained in Iraq as its prisoners (WCDC File 176). In violation of this Article, Iraq also displaced Kuwaitis from their homes and settled Iraqis in them to repopulate its "Nineteenth Province" (WCDC File 177.3035).

Article 51

The Occupying Power may not compel protected persons to serve in its armed or auxiliary forces. No pressure or propaganda which aims at securing voluntary enlistment is permitted.

. . . .

Young Kuwaiti males were routinely picked up off the streets and impressed into the Iraqi Army (WCDC File 177.3169).

Article 53

Any destruction by the Occupying Power of real or personal property belonging individually or collectively to private persons, or to the State, or to other public authorities, or to social or cooperative organizations, is prohibited, except where such destruction is rendered absolutely necessary by military operations.

It is not an exaggeration to say that what Iraq did not steal from Kuwait, it destroyed. It destroyed royal palaces, private homes, and oilfields (WCDC Files 177.3092, 177.3101, 177.3087, 177.3531). None of these acts were required by military necessity.

Article 83

The Detaining Power shall not set up places of internment in areas particularly exposed to the dangers of war.

The Detaining Power shall give the enemy Powers, through the intermediary of the Protecting Powers, all useful information regarding the geographical location of places of internment.

. . . .

While the Iraqi authorities in occupied Kuwait never established an official program to intern protected persons in a manner that complied with the GC, they did detain protected persons in government and military buildings, which would have been legitimate military targets.

E. (U) PROTECTED PERSONS AS HOSTAGES IN IRAQ AND OCCUPIED KUWAIT

Article 28

The presence of a protected person may not be used to render certain points or areas immune from military operations.

Article 34

The taking of hostages is prohibited.

Article 48

Protected persons who are not nationals of the Power whose territory is occupied may avail themselves of the right to leave the territory subject to the provisions of Article 35, and decisions thereon shall be taken according to the procedure which the Occupying Power shall establish in accordance with the said Article.

Article 35

All protected persons who may desire to leave the territory at the outset of, or during a conflict, shall be entitled to do so, unless their departure is contrary to the national interests of the State. The applications of such persons to leave shall be decided in accordance with regularly established procedures and the decision shall be taken as rapidly as possible. Those persons permitted to leave may provide themselves with the necessary funds for their journey and take with them a reasonable amount of their effects and articles of personal use.

If any such person is refused permission to leave the territory, he shall be entitled to have such refusal reconsidered as soon as possible by an appropriate court or administrative board designated by the Detaining Power for that purpose.

Upon request, representatives of the Protecting Power shall, unless reasons of security prevent it, or the persons concerned object, be furnished with the reasons for refusal of any request for permission to leave the territory and be given, as expeditiously as possible, the names of all persons who have been denied permission to leave.

Article 42

The internment or placing in assigned residence of protected persons may be ordered only if the security of the Detaining Power makes it absolutely necessary.

If any person, acting through the representatives of the Protecting Power, voluntarily demands internment, and if his situation renders this step necessary, he shall be interned by the Power in whose hands he may be.[14]

Although the "human shields" detained at military and industrial sites in Iraq have been distinguished from the thousands of Western "hostages" or "concealees" in Kuwait and Iraq, both categories in effect were "human shields," whose "presence . . . . [was] used to render certain points or areas immune from military operations." (GC, Article 28). Estimates of the numbers of hostages of all nationalities in Kuwait and Iraq at the height of the pre-war crisis range from 13,000 to 19,000. The number of American hostages in Iraq and Kuwait totaled 5,000; the number of Americans actually used as "human shields" in an attempt to protect military targets in Iraq totaled 106 (WCDC File 178).

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[14] Article 78 additionally governs the right of the Occupying Power to detain protected persons and sets out the procedure for such detention. Sadam never asserted any rights as a Detaining or Protecting Power in defense of his illegal hostage-taking.

Article 38

> [T]he situation of protected persons shall continue to be regulated, in principle, by the provisions concerning aliens in time of peace. In any case, the following rights shall be granted to them:
>
> . . . .
>
> (2) They shall, if their state of health so requires, receive medical attention and hospital treatment to the same extent as the nationals of the State concerned.
>
> . . . .
>
> (4) If they reside in an area particularly exposed to the dangers of war, they shall be authorised to move from that area to the same extent as the nationals of the State concerned.
>
> (5) Children under fifteen years, pregnant women and mothers of children under seven years shall benefit by any preferential treatment to the same extent as the nationals of the State concerned.

Saddam's attitude toward the hostages held in Iraq is exemplified by his remark that if Iraqi children were deprived of milk as a result of Western sanctions, hostage children would likewise be deprived of milk.

F. (U) CONCLUSION

Article 146

> The High Contracting Parties undertake to enact any legislation necessary to provide effective penal sanctions for persons committing, or ordering to be committed, any of the grave breaches of the present Convention defined in the following Article.
>
> . . . .

Article 147

> Grave breaches to which the preceding Article relates shall be those involving any of the following acts, if committed against persons or property protected by the present Convention: wilful killing, torture or inhuman treatment, including biological experiments, wilfully causing great suffering or serious injury to body or health, unlawful deportation or transfer or unlawful confinement of a protected person, compelling a protected person to

serve in the forces of a hostile Power, or wilfully depriving a protected person of the rights of fair and regular trial prescribed in the present Convention, taking of hostages and extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly.

Except for the prohibition on biological experimentation, Iraq committed every grave breach listed in this Article.

IV. (U) SPECIFIC EXAMPLES OF IRAQI WAR CRIMES IN OCCUPIED KUWAIT

A. (U) INTRODUCTION

During its deployment to SW Asia, the 199th Judge Advocate Detachment obtained indisputable evidence confirming Iraqi atrocities against the Kuwaitis. Working with members of the Kuwait resistance forces, the GOK, the Kuwaiti Red Crescent Society, hospital and medical personnel, the Kuwaiti Lawyers Cooperative Society, and friends and family members of victims, among others, the 199th obtained tools used in torture centers (WCDC File 72), videotaped torture implements and burial sites, and interviewed rape victims and others (WCDC File 73). Summaries of videotapes are collected at WCDC File 74. Specific examples of the types of war crimes committed by the Iraqi occupiers of Kuwait and summaries of substantiating evidence are contained in this section.

B. (U) IRAQI WAR CRIMES COMMITTED IN OCCUPIED KUWAIT

The Document Examination Center (DOCEX) in Dhahran proved to be a fertile source of war crimes information. Most of the material collected substantiated Iraqi crimes against Kuwait public and private property, such as orders to blow up oil wells and desalinization plants (WCDC Files 66.02003, 66.02004, 66.02006, 66.02010, 66.02024). Some documents also confirmed Iraq's intent to use chemical weapons (WCDC File 66.02007) and its plans to deport to Iraq all Kuwaiti citizens under forty years of age upon the commencement of the ground war (WCDC File 66.02011). Other documents sanctioned the burning of homes and the deportation of Kuwaitis who refused to answer their door (WCDC File 66.02018) and authorized shooting Kuwaitis seen praying on their roofs (WCDC File 66.02015).

The Iraqi occupation was extremely repressive. The 199th obtained evidence that resistance members were to be executed and their property confiscated (WCDC File 66.02025). Justification for execution was as flimsy as possessing pictures of Kuwaiti officials, refusing to serve Iraqi soldiers in a store, or failing to display a photo of Saddam Husayn (WCDC File 66.02021). Kuwaitis caught writing anti-Saddam or pro-Kuwait graffiti were subject to execution (WCDC File 66.02055). Brainwashing was casually sanctioned and encouraged, as was pressuring Kuwaiti families to obtain information (WCDC File 66.02026).

Through its Kuwaiti resistance contacts, the 199th arranged for the transfer of an Iraqi officer held covertly by the resistance to U.S. Military Police authorities. Before making the transfer, the officer was interviewed by the 199th and his testimony was taken. He described five executions and ten to fifteen incidents of Kuwaitis having been tortured. He identified three perpetrators by name and described his involvement indamaging

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a Kuwait desalinization plant. His interview is at WCDC File 73, tapes 11 and 12.

Several sets of extremely graphic photographs were obtained which, together with other evidence, confirm the types of torture and gruesome methods of killing employed by Iraqis (WCDC File 75). These include cigarette and electrical burns on bodies; eye gouging; amputation of ears, tongues, lips, noses and other body parts; beatings; gunshots to the head and torso; electric drill entry wounds in the chest, abdomen, and limbs; removal of fingernails; acid baths; and cleaving of skulls.

The 199th obtained information indicating the existence of an Iraqi Special Intelligence Detachment (SID) composed of 384 members. One SID team of twelve to fifteen members was assigned to each of the twelve Republican Guard Divisions. The teams kidnapped, tortured and murdered selected Arabs (WCDC File 66.02033).

The SID used various torture techniques, including electric shocks and whipping persons with water hoses filled with stones, starvation, and use of the "Deceptive Koran," a fake Koran with a hidden electrical charge. Victims were forced to place their hands on the "Koran," at which time a charge strong enough to knock them across the room would be triggered.

C. (U) STATISTICS AND SPECIFIC WAR CRIMES EXAMPLES

Exact statistics on Iraqi war crimes against persons in Kuwait during the occupation are not available. However, based on information obtained from hospital records and medical personnel, the following statistics are considered reliable but not all-inclusive for war crimes committed against persons in occupied Kuwait City (as of 30 April 1991):

Deaths Attributable to Iraqi Tortures or Execution: (For the period 2 August 1990 - 3 March 1991)

Premature babies removed from incubators:	120
Children ages 1-13:	153
Mentally ill:	57
Persons over age 13:	752

TOTAL	1082

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1. (U) Unjustified Killings.

The following are representative examples of specific unjustified killings by Iraqis obtained from eyewitnesses in Kuwait City:

WCDC FILE NO. 66.01098

On 10 October 1990, a Kuwaiti citizen witnessed the summary execution of a supermarket manager, Mubrak Al-Noot, by the Republican Guards for the offense of overpricing groceries. He was shot once in the head and once in the heart.

WCDC FILE NO. 66.01335

On 8 February, 1991, a Kuwaiti woman was present when her husband was removed from the family car and shot in the head by Iraqi soldiers. Then, her daughter, 18 months of age, was shot below the armpit, which caused a sucking chest wound. She survived. The witness herself, three months pregnant, was wounded in the knee.

WCDC FILE NO. 66.01165

A Kuwaiti teenager, age 16, and four other youths were placing a Kuwaiti flag at a crossroad on September 8, 1990, when they were spotted by three Iraqi soldiers. The youths scattered. The teenager, with his friend, Ali I. Al-Payhan, age 18, ran toward Ali's house. As they were entering Ali's home, the Iraqis fired, hitting the teenager in the neck. Ali was captured by the Iraqis who shot him to death in front of his mother. The teenager recovered from his wounds.

2. Torture Centers

Torture centers were identified at: Rotha Police Station, Maidan Hawali Police Station, Bayan Police Station, Jabriah Police Station, Qadisiya Police Station, Odaila Police Station, Hawali Police Station, Arabi Club, Kadiemah Club, Al-Nasen Club, Kuwait Club, Police Academy Building, Naif Palace, Iraqi Embassy, Kuwait Institute for Fish and Plant Resources, Jaber Mabarrak Al-Hamed Palace, Sheik Ali Palace in Yarmook, Sheik Nawaf Al-Ahmed Al Sabah Palace, Hyatt Regency Hotel, Holiday Inn Hotel, General Security Department, and Kuwait Institute for Scientific Research (WCDC Files 66 and 68).

The following are representative examples of specific Iraqi war crimes involving the torture centers in occupied Kuwait City

WCDC FILE NO. 66.01015

This Kuwaiti citizen was arrested by Iraqis at home on 23 November 1990 and held until mid-December. During his captivity he received repeated beatings and electric shocks to his mouth, nose and genitalia. He was suspended from a ceiling and subjected to two mock executions. He witnessed the torture of other Kuwaitis by techniques which included forced ingestion of gas causing abdominal pains, forcing a woman to eat flesh cut from her own body, an execution by axe, removal of eyeballs, dismemberment, burning with a hot iron, execution by electric drill, and placement of a person into a large rotating washing machine.

WCDC VIDEO TAPE NO. 73.23, tape 2

This individual was arrested by Iraqis in January, 1991, and held 17 days. During this time he was cut with razor blades, hanged from a window, had salt rubbed into his wounds, had fingernails removed, was beaten with cables, and had wire tied around his genitals. He was threatened with removal of his eyes and with execution.

WCDC FILE NO. 66.01164

This individual and eleven other victims were repeatedly tortured while held captive over an extended period. The methods of torture included electric shock until the victim was rendered unconscious, hanging by being suspended by his arms which were tied behind the back, burning with hot irons and cigarettes, removal of fingernails and toenails, and extended beatings upon the soles of the feet.

WCDC FILE NO. 66.01361

This man, his wife, and child were at home when Iraqi soldiers broke in and ransacked the house looking for valuables. When they found a picture of the Emir, his wife was pushed to the floor, and the child was kicked. The Iraqis then took his wife as a captive and kept her five days during which time she was beaten and raped

A partial list of victims whose deaths are attributable to Iraqi forces is at WCDC File 66.01700, and death certificates of 107 victims are included in WCDC Files 66.01701-01808.

D. (U) IDENTIFICATION OF SUSPECTED IRAQI WAR CRIMINALS

Several attempts were made to identify Iraqi soldiers who committed atrocities in Kuwait, particularly those who may have fallen into U.S. custody during or after the ground war. This proved to be a daunting challenge for a variety of reasons. First, many Iraqis committing atrocities in Kuwait used aliases. Few witnesses interviewed by the WCDC could identify perpetrators by

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name, and although most believed that their oppressors could be identified by photographs, none were readily available. Identification by uniform was frustrated by the lack of distinctive insignia and by the widespread use of civilian clothes by Iraqis committing some of the most heinous crimes.

Second, although efforts were made in the EPW camps to interrogate prisoners regarding war crimes, the sheer number of EPWs overloaded the system and made the orderly processing of prisoners, let alone in-depth interviews, extremely difficult. Adding to the difficulty of identification were the lack of ID cards among large numbers of EPWs, the giving of fake names to camp personnel, and the variations in methods of spelling names in Arabic. The latter problem made computer searches of Prisoner of War Information Center (PWIC) data bases useless.

At the 199th's request, the 800th MP Brigade, using PWIC printouts, made a valiant effort to extract manually the names of possible war criminals in U.S. EPW custody. That effort, however, did not result in a useful work product, although some photographs were obtained (WCDC File 75).

Moreover, EPWs were moved from U.S. hands into Saudi control in large numbers frequently within three days of capture. This limited both the amount of time and the ability to coordinate information between the 199th and the U.S. commands responsible for EPWs.

Finally, the Government of Kuwait reserved for itself the exclusive right to investigate fully Iraqi war crimes committed against its citizens within its borders. This policy effectively precluded the necessary follow-up investigations in Kuwait with victims and eye-witnesses by the 199th.

Nevertheless, the 199th has compiled a preliminary list, assembled from a variety of sources, of 485 Iraqi soldiers suspected of committing war crimes against Kuwaitis (WCDC File 78). The list contains the names of persons who were members of units located in or near neighborhoods and torture centers where atrocities occurred. It must be emphasized that considerable additional investigation needs to be conducted before a prima facie case of a violation of the law of war can be proven against any named individual.

E. (U) SUGGESTED ADDITIONAL PROCEDURES TO IDENTIFY WAR CRIMINALS

Using captured Iraqi documents and 199th incident files from Kuwait City, it may be possible to build prosecutable cases against some of the Iraqi war criminals. Naturally, this assumes the cooperation of the GOK.

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As soon as the Defense Intelligence Agency (DIA) completes the Document Examination (DOCEX) process, including the translation of Order of Battle data and unit identification analysis, it may be feasible to match WCDC incident reports containing date and place of atrocity with the specific unit stationed in or near the crime scene.

In this way, specific individuals who committed torture and other war criminals may be identified, providing a base for further investigations, particularly if any suspects were captured and processed through the Prisoner of War Information Center apparatus. In that event, PWIC photos may be available to facilitate eyewitness identification. Photos of enemy personnel within suspect Iraqi units may also be available in the DOCEX material being scanned, screened, and translated by DIA.

V. (U) PICTORIAL LIBRARY

The story of the war of aggression against Kuwait is not just one of textual U.N. resolutions or the rambling communiques of Saddam Husayn. It is a collage of violence and horror best communicated through sight and sound. The terror wrought upon the residents of Kuwait, innocent civilians in Saudi Arabia and Israel, and U.S. prisoners of war and citizens held hostage is irrefutably told through unaltered photographs and videotapes.

Capturing evidence of alleged war crimes in pictures and on videotape has two purposes. The first is to comply with the War Crimes Documentation Center's mission to investigate violations of the law of war. This requirement presupposes that these images will be necessary for evidentiary purposes in any subsequent tribunals. For evidentiary purposes the WCDC has secured over 5000 images with accompanying sworn declarations of authenticity to assure admissibility in a variety of fora.

The second purpose for building a photographic library is to provide a record for posterity. The atrocities, and the terror resulting from them, committed in violation of the law of war and the norms of international behavior, should be memorialized for the historical record. The images contained in this report conjure up the pain and suffering crisply and distinctly.

This evidence was obtained through the coordination of the 208th and 199th JAG Detachments and the Joint Combat Camera Centers (JCCC) in MacDill AFB, Florida, CENTCOM HQ Riyadh, and--following the liberation of Kuwait--in the JCCC makeshift photo center off the lobby of the charred Kuwaiti International Hotel.

The War Crimes Documentation Center pictorial library contains images in three media: (1) still video, (2) motion video, and (3) still photography, print and slide. This library is found at WCDC File 151. Volumes 1, 2, and 3 contain over 2000 still videos, 39 motion video, 500 slides, and 2700 prints from negatives. The WCDC File includes comment sheets for each image and contain the date, place, photographer, and the Visual Index Retrieval Information Number (VIRIN). The VIRIN system can be used to retrieve specific images from the Joint Combat Camera Center. Procedures for doing so can be found at WCDC File 154.

A. (U) VIDEOTAPE

The videotapes show the grim results of the Iraqi occupation. In one, cemetery volunteers walk through the Rigga and Kuwait cemeteries describing those bodies recently interred.

In another, an Iraqi Captain provides the locations of "torture centers." A witness to executions and tortures, the Captain describes the killers and their procedures. He witnessed

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the killings and torture of over 170 Kuwaitis. He also saw Iraqi soldiers committing large-scale theft from palaces and houses. He witnessed the giving of orders to mine the Kuwaiti oilfields.

Other videos show additional interviews and locations of destruction throughout Kuwait. Portions of the interviews are done in English and others are in Arabic with English summaries. This pictorial library contains visual tours, interviews, and debriefs.

B. (U) STILL VIDEOS, SLIDES AND PRINTS

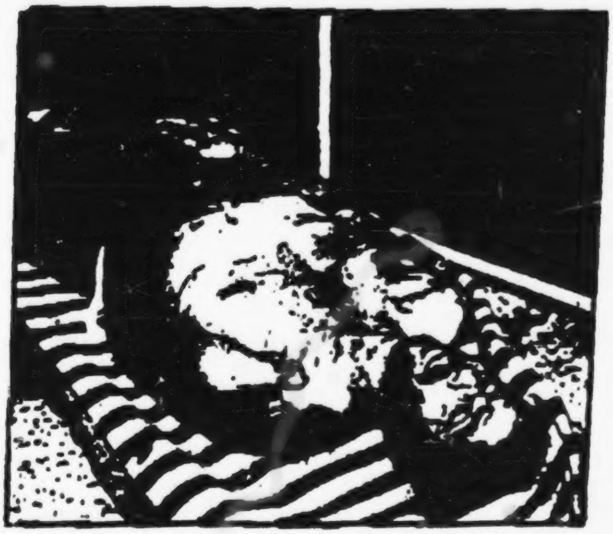
The still videos, slides, and prints section of the WCDC pictorial library contains over 5000 images. The content of this section of the library includes scenes of the destruction of buildings, museums, zoos, public schools, and other facilities. Most of the photos, however, tell the tale of human suffering. Combat Camera photo teams secured many photos of tortured and dead Kuwaitis. Hundreds of other photos show the impact of the SCUD attacks in Saudi Arabia and environmental damage in the Gulf region.

C. (U) PICTORIAL EXCERPTS

The following pictorial excerpts are intended to demonstrate to the reader the type and variety of evidence that has been obtained. They are taken from the images compiled by the WCDC. The stills, video tapes, and video stills are listed in Section D of the Index to this Report.

D. (U) EXCERPTS OF VIDEO AND STILL IMAGE SECTIONS OF PICTORIAL LIBRARY

TORTURE AND KILLING OF NONBELLIGERENT PROTECTED PERSONS



Cite: Article 32 of the Geneva Convention Relative to the Protection of Civilian Persons in Time of War of 12 August 1949. (GC)

Tortured Kuwaiti

Article 32 of (GC)

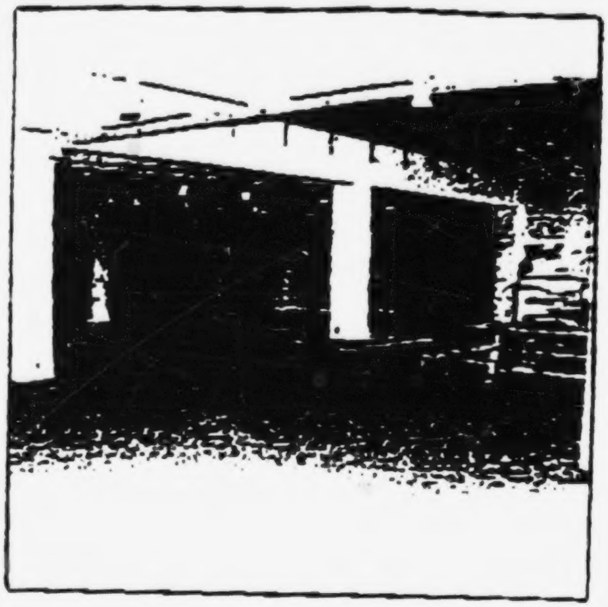
"The High Contracting Parties specifically agree that each of them is prohibited from taking any measure of such a character as to cause the physical suffering or extermination of protected persons in their hands. This prohibition applies not only to murder, torture, corporal punishment, mutilation and medical or scientific experiments not necessitated by the medical treatment of a protected person, but also to any other measures of brutality whether applied by civilian or military agents."

Tortured Kuwaiti

/...

LOOTING, THEFT OF PROPERTY IN KUWAIT, BEYOND MILITARY NECESSITY

Cite: Article 23(g), 28 and 47 of the Hague Convention No. IV of 18 October 1907, Respecting the laws and customs of War on Land (H.IV), and Article 53 of the Geneva Convention Relative to the Protection of Civilian Persons in Time of War of 12 August 1949. (GC)

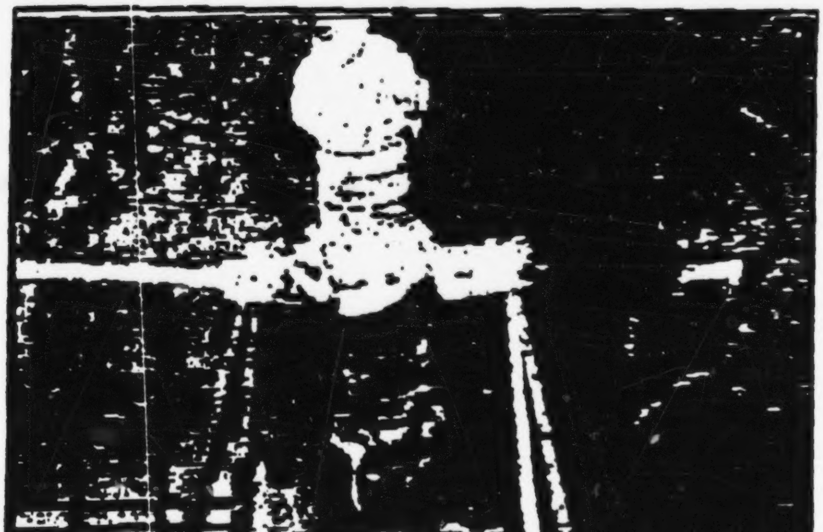


Looted Floor Space in Museum

Article 23(g) of (H.IV)

"In addition to the prohibitions provided by special Conventions, it is especially forbidden...

g. To destroy or seize the enemy's property, unless such destruction or seizure be imperatively demanded by the necessities of war.



Destroyed Planetarium

Article 28 of (H.IV)

"The pillage of a town or place, even when taken by assault, is prohibited."

Article 47 of (H.IV)

"Pillage is formally forbidden."

Article 53 of (GC)

"Any destruction by Occupying Power of real or personal property belonging individually or collectively to private persons, or to the state, or to other public authorities, or to social or cooperative organizations, is prohibited, except where such destruction is rendered absolutely necessary by military operations."

Looted Room in Emir's Palace

TAKING OF HOSTAGES

Cite: Article 34 of the Geneva Convention Relative to the Protection of Civilian Persons in Time of War of 12 August 1949. (GC)

Article 34 of (GC)

> "The taking of hostages is forbidden."

A Group of Americans Prior to Being Taken Hostage. The Men were Used as Human Shields.

[illegible]

Hostage (Picture Supplied by Wife to Aid in the Identification)

MISTREATMENT OF POWS, PUBLIC DISPLAY OF POWS

Cite: Article 13 and 14 of the Geneva Convention Relative to the Treatment of Prisoners of War of 12 August 1949 (GPW)

Article 13 of (GPW)

"Prisoners of war must at all times be humanely treated. Any unlawful act or omission by the Detaining Power causing death or seriously endangering the health of a prisoner of war in its custody is prohibited, and will be regarded as a serious breach of the present Convention. In particular, no prisoner of war may be subjected to physical mutilation or to medical or scientific experiments of any kind which are not justified by the medical, dental or hospital treatment of the prisoner concerned and carried out in his interest.

Likewise, prisoners of war must at all times be protected, particularly against acts of violence or intimidation and against insults and public curiosity.

Measures of reprisal against prisoners of war are prohibited.

Article 14 of (GPW)

"Prisoners of war are entitled in all circumstances to respect for their persons and their honor.

Women shall be treated with all the regard due to their sex and shall in all cases benefit by treatment as favorable as that granted to men.

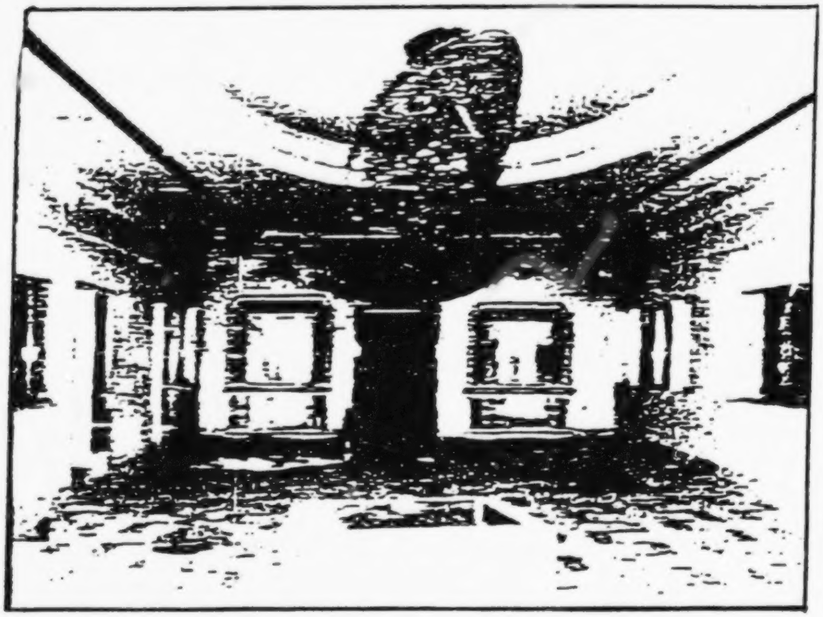
DESTRUCTION OF PLACES OF HIGH CULTURAL VALUE

Cite: Article 56 of Hague Convention No. IV of 18 October 1907, Respecting the Laws and Customs of War on Land (H.IV)

Article 56 of (H.IV)

"The property of municipalities, that of institutions dedicated to religion, charity and education, the arts and sciences, even when State property, shall be treated as private property.

All seizure or destruction of, or wilful damage to, institutions of this character, historic monuments, works of art and science, is forbidden, and should be made the subject of legal proceedings."



Looting of Emir's House on Palace Grounds

VI. (U) INDEX OF WAR CRIMES DOCUMENTATION CENTER (WCDC) FILES

The WCDC File Indices are divided into four sections. Section A organizes the WCDC war crimes files by categories, e.g., "General Reference," "Iraqi War Crimes against Kuwait," etc. (The bold number [**3**] following each file lists its numerical location within the WCDC filing system. A bold, underscored number [**5**] indicates the item is a newspaper clipping and can be found in one of the two volumes of the WCDC's collection of newspaper clippings). Section B lists the WCDC files by number, e.g., File 2, File 3, for locating where the file is physically held in the WCDC files. Section C lists the contents of the two volumes of newspaper clippings collected by the WCDC. Section D lists the videotapes and still pictures collected by the WCDC on war crimes.

SECTION A WCDC FILES BY CATEGORIES[15]

I. [illegible] REFERENCE:

S/ ES/660 (Aug. 2, 1990), S/RES/661 (Aug. 6, 1990), S/RES/662 (Aug. 9, 1990), S/RES/664 (Aug. 18, 1990), S/RES/665 (Aug. 25, 1990), S/RES/666 (Sep. 13, 1990), S/RES/667 (Sep. 16, 1990), S/RES/667 (Sep. 24, 1990), S/RES/669 (Sep. 24, 1990), S/RES/670 (Sep. 25, 1990), S/RES/674 (Oct. 29, 1990), S/RES/677 (Nov. 28, 1990), S/RES/678 (Nov. 29, 1990), _reprinted in_ Bureau of Public Affairs, U.S. Dep't of State, _Dispatch_, Vol. 1, Nos. 2, 4, 5, 10, 14, U.N. Security Resolutions on Iraq (1990). [1]

2. Solf, "War Crimes and the Nuremberg Principle," in _National Security Law_ 359-409 (J.N. Moore, F.S. Tipson & R.F. Turner eds. 1990). [8]

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6. _Modern Legal Systems Encyclopedia,_ Supp. 1987 ed., s.v. "The Legal System of Kuwait." [12]

7. D.A. Korn, _Human Rights in Iraq_ (1990). [13]

8. _The Legal Basis for Trial of War Criminals_, 19 Temp. L.Q. 133 (1945). [16]

9. M. Cherif Bassiouni, _The Time Has Come For An International Criminal Court_ (1990) (to be published in Ind. Int'l Comp. L. Rev.). [18]

10. Standard Operating Procedure, War Crimes Branch, General Headquarters, United States Army Forces (15 Sep. 1945). (RESTRICTED) [22]

11. Army Regulation 195-2, Criminal Investigation Activities (30 Oct. 1985). [23]

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[15] Classified files are either identified by their unclassified title or removed completely from the Index.

12. Suggestions and Forms for War Crimes Investigations, Gen. Hqtrs., U.N. Command, Office of the Command Judge Advocate, Tokyo, Japan (29 Sep. 1950). [24]

13. Directive No. 20-4, Inspections and Investigations: War Crimes, Hqtrs., U.S. Military Assistance Command, Vietnam, (10 Jul. 1970). [25]

14. Change 1, Directive No. 20-4, Inspection and Investigations: War Crimes, Hqtrs., U.S. Military Assistance Command, Vietnam (2 Mar. 1971). [26]

15. E.L. Chase, Lawful Conduct In War: Basic Principles For The Small Unit Leader To Master and Implement (1991) (United States Marine Corps, Law of War Course Reference Materials). [27]

16. Exec. Order No. 9547, F.R. Doc. 45-7256 (May 3, 1945).[28]

17. Charter of the International Military Tribunal, annexed to the London Agreement for the Prosecution and Punishment of the Major War Criminals of the European Axis (8 Aug. 1945). [29]

18. M. Welton, Introduction to Islamic Law. Outline of Lecture by MAJ M. Welton, USA, International Law Division, The JAG School (Mar. 1991). [36]

19. WCDC, Table of Contents for Selected Periodicals and Newspaper Articles on War Crimes (1991). [39]

20. United States Marine Corps, Law of War Course Reference Materials (1991). [40]

21. United States Marine Corps, Law of War Course Deskbook (1991). [41]

22. E. Wallach, Survey of Historical Antecedents of WCDC.[82]

23. U.S., Department of State, Bureau of Public Affairs, Chronology: The Gulf Crisis - U.N. Security Council Actions, Dispatch, Vol. 2, No. 10 (Mar. 11, 1991). [90]

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26. Directorate Of Intelligence, Central Intelligence Agency, Political and Personality Handbook Of Iraq (u) (Jan. 1991) (SECRET). [94]

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27. C. Mark and R. Stasio, Iraq-Kuwait Crisis: A Chronology of Events July 17, 1990 - February 7, 1991, CRS Report For Congress (Feb. 8, 1991). [14]

28. Letter fm Thomas R. Pickering, U.S. Perm Rep to the U.N. to the SecGen Perez de Cuellar (Dec. 6, 1990) (reporting Iraq's grave breaches of the Fourth Geneva Convention). [20]

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30. Memorandum of Concurrence, 21 Dec. 90, fm MAJ John Parkerson, JA, DAJA-IA, to COL Geyer, Subj: International Law on the Protection of Civilians. [136]

31. U.S., Department of State, A List of Treaties and Other International Agreements of the United States in Force on January 1, 1990 (June 1990). [137]

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33. The Relationship Between the Courts-Martial and the Military Commission (furnished to WCDC at The JAG School, Charlottesville, VA). [162]

34. Aldrich, Prospects For United States Ratification of Additional Protocol I To The 1949 Geneva Conventions, 85 Am. J. of Int'l L. 1 (1991). [169]

35. Paust, Suing Saddam: Private Remedies For War Crimes and Hostage-Taking, 31 Va. J. of Int'l L. 351 (1991). [170]

36. Rene-Beres, The United States Should Take The Lead in Preparing International Legal Machinery For Prosecution Of Iraqi Crimes, 31 Va. J. of Int'l L. 381 (1991). [171]

37. O'Brien, The Nuremberg Precedent and the Gulf War, 31 Va. J. of Int'l L. 391 (1991). [172]

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39. Memorandum of Concurrence, 2 Nov. 90, fm COL James A. Burger, JA, IA to Mr. Haynes, Army GC, Subj: President's

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Statement Comparing Atrocities Committed by Saddam Hussein with Atrocities Committed by Hitler, w/attached memorandum. [174]

40. Keep the Cuffs on Iraq, N.Y. Times, Sep. 11, 1991, at A26. [148]

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4. Memorandum, 9 Apr. 1991, fm LTC Pidgeon to WCDC, Subject: Communication between NPWIC and ICRC re POWs/MIAs. [43]

5. DIA POW-MIA Totals, 19 Apr. 1991 (SECRET). [48]

6. U.S., Department of the Air Force, Operation Yellow Ribbon Debriefings, 11 Apr. 1991 (SECRET). [49]

7. Memorandum, 17 Apr. 1991, fm Chief, Special Office for POW and MIA, to Chief, WCDC, Subj: DIA POW-MIA Input to Iraqi War Crimes Summary Report. [50]

8. EPW War Crimes Questionnaire for JIFs. [56]

9. PWIC Files with EPW Photographs. [77]

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11. Defense Special Assessment 149-91 (13 Feb. 1991), prepared by N. Eftimiades, DIA/POW-MIA, Subj: IRAQ: Baghdad's POW Handling Procedures and Policy (SECRET). [87]

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14. Defense Intelligence Agency, Iraqi and Iranian POW Negotiator Biographies (SECRET). [123]

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17. Message O 080111Z MAR 91, fm DIA to RUDHAAA, Subj: Collection Support Brief Desert Storm Prisoner Of War Debriefing Intelligence (SECRET). [140]

18. POW/MIA Accountability as of 8 Mar. 91 (CONFIDENTIAL). [141]

19. Message OP 031025Z MAR. 91, fm USCINCCENT to RUDCHAA, Subj: POW Debriefings (SECRET). [142]

20. Message O 282040Z FEB 91, fm DIA to RHIPAAA/USCINCCENT, Subj: Questions For Initial Debrief Of American and Coalition Returnees - Desert Storm (SECRET). [143]

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28. U.S. POW Debriefings (21), summaries thereof, and MIA files (SECRET). [176]

III. HOSTAGE/HUMAN SHIELD:

1. [Classified]

2. Iraqi Violations of the Law of War as stated in Hague Convention IV (SECRET). [96]

3. [Classified]

4. [Classified]

5. Information Memorandum, U.S. Dep't of State, 29 Nov. 1990, fr INR-Douglas P. Mulholland to P-Mr. Kimmitt, Subj: Iraq/Kuwait: Saddam's "Guest" Policy and Status of Foreigners (SECRET). [99]

6. Information Memorandum w/Attachments, U.S. Dep't of State, 4 Jan. 1991, fm INR-Douglas P. Mulholland to P-Mr. Kimmitt, Subj: Numbers of Foreign Nationals Remaining in Iraq and Kuwait (CONFIDENTIAL). [100]

7. [Classified]

8. Information Memorandum, U.S. Dep't of State, 20 Nov 1990, fm INR-Douglas P. Mulholland to CA-Ms. Tamposi, Subj: Condition of American Citizens in Kuwait (SECRET). [102]

9. [Classified]

10. [Classified]

11. [Classified]

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    e. Iraq/Gulf: Limited Exodus Allowed, 29 Jan. 1991 (CONFIDENTIAL). [118]

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29. Certified List of U.S. Hostages from State Department. [178]

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5. *Iraqi Forces Killing and Torturing in Kuwait, Says Amnesty International Fact-Finding Team*, Amnesty International USA (Oct. 2, 1990). [37]

6. Log of Interviews at Justice Annex in Kuwait City. [65]

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    01001-01507: Incident Files Based on Witness Interviews in Kuwait.

    01700-01808: Incident Files Based on Death Certificates in Kuwait.

    02000-02056: Incident Files Based on Documents Provided by DOCEX or Kuwaiti Sources.

    03000-03630: Incident Files Based on Persons Detained or Held Hostage in Kuwait or Iraq (Created by 208th JAG Detachment).

    04000-04049: Incident Files Based on American POWs' Debriefings (Created by 208th JAG Detachment).

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9. Instruments of Torture. [72]

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14. Kuwait Reports Repelling Iraq Force at Gulf Island, N.Y. Times, Aug. 29, 1991, at A10. [156]

V. VIDEO: [See Section D for Detailed Listings]

1. 199th Videotapes. [73]
2. Summaries of 199th Videotapes. [74]
3. 199th Photographs. [75]
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2. WCDC Legal Outline on Law of Armed Conflict for Kuwaiti Student Augmentees (1991). [31]

3. WCDC, Preliminary War Crimes and Reparations Survey (1991). [32]

4. WCDC, Government of Kuwait Preliminary War Crimes and Reparations Survey Worldwide Media Plan (1991). [33]

5. WCDC, Preliminary Statistical Report on Hostage Debrief Files (1991). [34]

6. Memorandum, 16 Feb. 1991, fr CENTCOM SJA to Director, WCDC, Subj: Expanded Mission of War Crimes Documentation Center. [51]

7. Battlefield Investigations: Task Organizations (Organizational Charts of 199th). [52]

8. USCENTCOM Policy Directive, 5 Dec. 90, Subj: Legal Services: Documentation of War Crimes Committed by Iraqi Forces and Others in Occupied Kuwait [53]

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10. Message 081100Z FEB 91, fm USCENTAF TO AIG0662/JA, Subj: Reporting Law of Armed Conflict Violations (UNCLASSIFIED) [55]

11. Cable, Feb. 26, 1991, fr AMB GNEHN to DEP'T OF STATE, Subj: Contacts with GOK re War Crimes (CONFIDENTIAL) [57]

12. Arabic and English Nameplates for 199th Justice Annex in Kuwait City. [58]

13. Summary Statement of USCENTCOM 199th Mission for GOK dated 14 Mar. 1991, from Commander, 199th, to GOK, Ministry of Justice [59]

14. Public Announcement of 199th's Presence (Arabic). [60]

15. Pamphlet Requesting Cooperation for 199th's Mission (Arabic). [61]

16. Letter of Introduction, 2 Mar. 1991, of 199th's Members from CENTCOM SJA to U.S. and Kuwaiti security forces (in English and Arabic). [62]

17. Form for Eye-Witness Report of Iraqi Atrocities (in English and Arabic). [63]

18. 199th's Database Input Form. [64]

19. Weekly Reports of 199th's KTO Operations from 4 Mar. 1991 to 21 Apr. 1991. [68]

20. Memo Collocating 199th with Civil Affairs Task Force Kuwait (CATF) dated 28 Feb. 91. [69]

21. Memorandum, 21 March 1991, from William J. Haynes II, Department of the Army General Counsel, to the General Counsel, Department of Defense, subject: Summary of War Crimes Documentation Center Activities in Kuwait City, with attachment. [179]

22. Memorandum, 3 April 1991, from William J. Haynes II, Department of the Army General Counsel, to the General Counsel, Department of Defense, subject: Update of War Crimes Documentation Center Activities, with attachment. [180]

23. Suggested War Crimes Questionnaire for GOK and Cover Letter, 8 Apr 1991, fr CDR, 199th, to Kuwait Ministry of Justice (MOJ). [70]

24. Memorandum, 11 April 1991, from William J. Haynes II, Department of the Army General Counsel, to Acting The Judge Advocate General, subject: Investigation of Iraqi War Crimes, with two enclosures. [181]

25. DIA DOCEX Input Form (18 Apr. 91). [71]

26. Memoranda (2) dated 9 and 18 Apr 1991 fr USARCENT to Commander, USCENTCOM w/enclosure: VII Corps Report of Atrocities in Iraq [against Kurds and Shiites]. (SECRET) [79]

27. Mobilization Issues. [80]

28. Deployment Preparations and Training. [81]

29. Administrative And Operational Procedures. [83]

30. Demobilization Issues. [84]

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32. Three (3) Messages, O 080224Z MAY 91, fm SECSTATE WASHDC, to RUEHKU/AMEMBASSY KUWAIT, Subj: Consultations with GOK on Prosecution of War Criminals and Others in Kuwait City; P 160808Z MAY 91 fm AMEMBASSY, KUWAIT, to RUEHC/SECSTATE WASHDC, Subj: Kuwaiti Foreign Ministry: Undersecretary on War Crimes; and P 171642Z MAY 91, fm

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34. Message O 041031Z MAY 91, fm AMEMBASSY KUWAIT to RUEHC/SECSTATE WASHDC, Subj: War Crimes Information From Kuwait and Saudi Arabia (CONFIDENTIAL). [126]

35. Itinerary for visit of Edward Cummings and James Hergen to Kuwait, May 13-15, 1991 [128]

36. Dep't of State ARA/NEA REARCS Message O 081706Z MAY 91, fm AMEMBASSY KUWAIT to SECSTATE, Subj: Travel of Cummings and Hergen to Kuwait (CONFIDENTIAL). [130]

37. Memorandum, fm LTC James G. Hergen to David L. Griffen, Director of Logistics, Fort George G. Meade, Subj: Logistics Phase After Action Report. [158]

38. Memorandum, 17 Jul. 1991, fm LTC Hergen to Deputy Chief of Staff for Operations and Plans, ATTN: DAMO-ODM, Subj: Request to Extend REFRAD Date of WCDC Personnel. [159]

39. Memorandum, 17 Jul. 1991, fm COL Lempke to OTJAG, ATTN: DAJA-IA-WCDC, Subj: Response to Request To Extend REFRAD Date of WCDC Personnel. [160]

40. Memorandum, 24 Jul. 1991, fm LTC Lederer, JA, to Acting Chief, International Affairs Division, Subj: Extension on AD of WCDC Personnel. [161]

41. 208th JAG Detachment After Action Report for Operation Desert Shield/Storm, 31 July 1991 (DRAFT). [168]

VII. U.S. LEGISLATION AND RELATED ISSUES:

1. Human Rights Abuses In Kuwait and Iraq: Hearing Before the House Committee On Foreign Affairs, 102d Cong., 1st Sess. (1991). [2]

2. S. Res. 253, 102d Cong., 1st Sess. (1991). [5]

3. Oversight Hearing on War Crimes Before the Subcommittee on International Law, Immigration, and Refugees of the

House Committee on the Judiciary, 102d Cong., 1st Sess. (1991). [6]

4. Persian Gulf: The Question of War Crimes, Hearing Before the Senate Committee on Foreign Relations, 102d Cong., 1st Sess. (1991) (statements of Sen. Claiborne Pell, Professor Elie Wiesel, Dr. Robert K. Woetzel, and Professor Anthony D'Amato). [7]

5. Draft Statute, International Criminal Tribunal: Committee of Experts on International Criminal Policy for the Prevention and Control of Transnational and International Criminality and for the Establishment of an International Criminal Court, 8th U.N. Congress On the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 Aug.-7 Sep. 1990 (1990). [19]

6. Memorandum, 18 Apr. 1991, fm Acting Asst. General Counsel, DOD, to Mr. O'Donnell and Mr. Niederlehner, Subj: War Crimes Legislation. [35]

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8. "Legi-Slate" Summaries (with updates) of Bills and Resolutions Pertaining to War Crimes, 102d Cong., 1st Sess. (1991). [42]

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10. Memorandum, 7 Jun 1991, fm W. Hays Parks for the General Counsel and the Judge Advocates General, Subj: Iraqi War Crimes Investigation. [127]

11. Letter (Undated) fm Janet G. Mullins, Asst Secretary, Legislative Affairs, DOS, to Richard G. Darman, Dir., OMB, Subj: Proposed report on H. Res. 42, H. Con. Res. 127, H. Con. Res. 81, and S. 253 re War Crimes by Iraq; letter (drafted 4/19/91) fm Janet G. Mullins to Hon. Dante E. Fascell, Chairman, House Foreign Affairs Committee, Subj: DOS Views on H. Con. Res. 81, H. Res. 42, and H. Con. Res. 127; letter (Mar. 28, 1991) fm Hon. Dante B. Fascell to Hon. James A. Baker, Sec. of State, Subj: Request For DOS Views on H. Con. Res. 81; H. Con. Res. 81, 102d Cong., 1st Session (1991); letter (Apr. 12, 1990) fm Hon. Dante B. Fascell to Hon. James A. Baker III, Subj: Request for DOS Views on H. Res. 42; H. Res. 42, 102nd Cong., 1st Session (1991); letter (Apr. 23,

1991) fm Hon. Dante B. Fascell, to Hon. James A. Baker III, Subj: Request for DOS views on H. Con. Res. 127, 102nd Cong., 1st Session (1991). [129]

12. Memorandum, 15 Apr. 91, fm LCDR Gambrill, USN, to Chief, WCDC, Subj: Senate Foreign Relations Committee (SFRC) hearing concerning "Persian Gulf: The Question of War Crimes." [163]

13. The Time Has Come for an International Criminal Court, Hearing before the House Committee on the Judiciary Sub-Committee on International Affairs, 102d Cong., 1st Sess (1991) (testimony by M. Cherif Bassiouni). [164]

14. Hearing on Ambassadorial Nominations Before the Subcommittee on Near Eastern and South Asian Affairs of the Senate Committee on Foreign Relations. (1987) (Statement of April C. Glaspie of California, Ambassador - Designation to the Republic of Iraq). [165]

15. Chairman's Opening Statement on U.S. Policy Toward Iraq, 20 Mar 1991 (Subj: Ambassador Glaspie). [166]

16. Hearing on War Crimes Before the Human Rights Caucus of the United States House of Representatives (Aug. 1, 1991)

    a. Opening statement of Todd Davis

    b. Testimony of Cindy H. McCain - American Voluntary Medical Team (AVMT)

    c. Opening statement by Congressman Curt Weldon, Chairman, House Task Force on Kuwait)

    d. Prepared statement of Dr. Abdulla Al-Hammadi, Registrar, Neurology Department. Ibin Siena Hospital, Kuwait.

    e. Prepared statement of Robert F. Turner, Associate Director, Center for National Security Law, University of Va. School of Law.

    f. Report on "Freedom Flight" Congressional Trip to Kuwait - March 1991 Prepared by Congressman Curt Weldon.

    g. Remarks for Congressman Weldon's Briefing August 1, 1991, Subj: POW Treatment by Iraqis During Operation Desert Storm (U).

    h. Agenda, Congressional Human Rights Caucus: Iraqi War Crimes, August 1, 1991. [167]

17. Memorandum, 6 May 1991, fr J. Stapleton Roy, Executive, Secretary, for Brent Scowcroft, Subj: Administration Policy on Iraqi War Crimes (SECRET). [175]

VIII. SPECIFIC INCIDENT FILES:

1. **Crimes Against Peace, Aggression Against Kuwait:**

   a. Materials Furnished by Bureau of Intelligence and Research, Department of State: Submission of Information Concerning Grave Breaches by Iraq to the United Nations Security Council In Accordance with Paragraph 2 of Resolution 674 (1990). [125]

   b. Memorandum, 7 Jun 1991, fm W. Hays Parks for the General Counsel and The Judge Advocate General, Subj: Iraqi War Crimes Investigation. [127]

2. **Chemical, Biological Weapons:**

   a. Desert Storm DOD Message P 150827Z MAR 91, fm FBIS NICOSIA, CY, to USCINCCENT, et al, Subj: Iraqi Army Reportedly Used Mustard Gas against Insurgents (UNCLASSIFIED).

   b. Desert Storm Message, O R 200400Z MAR 91, fm CINCFOR to JOINT STAFF, USCINCCENT, AIG 7433, AIG 9163, Subj: Sitrep No. 225 - Chemical Weapons (SECRET).

   c. Desert Storm Message O R 050400Z APR 91, fm CINCFOR to JOINT STAFF, USCINCCENT MAIN, Subj: Sitrep No. 241, Postwar Situation in Iraq (SECRET).

   d. Kuwait Doctor: Iraq Dropped Nerve Gas, Wash. Times, Mar. 27, 1991, at A9, col. 4. [76]

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   f. L. Waters, Chemical Weapons in the Iran/Iraq War, Military Rev., Oct., 1990, at 57. [172]

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   h. U.N. Decides to Permit Iraq Oil Sale Worth $1.6 Billion, N.Y. Times, Aug. 16, 1991. [135]

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j. Iraq's Missiles, Wash. Post, Sep. 13, 1991, at A24. [153]

3. **Pollution of Persian Gulf.**

Gulf War Pollution Destroying Saudi Coast, J. of Commerce, Sep. 9, 1991, at 78. [146]

4. **Torching of Oil Fields and Wells:**

a. Desert Storm Message, P 231522Z FEB 91, fm COMSOCCENT to DIA, Subj: Suspected Systematic Destruction Undertaken by Iraqi Forces in Kuwait (SECRET).

b. Desert Storm Message, P 120600Z MAR 91, fm 202 MI BN to RHSGEPW, Subj: Instructions To The Components Of The 3rd Armored Division (CONFIDENTIAL).

c. Desert Storm Message, P 171212Z MAR 91, fm 202 MI BN to RHSGEPW, Subj: Instructions To Blow Up The Oil Wells If Attacked (SECRET).

d. When It's Dark At High Noon, U.S. News and World Rep., Apr. 1, 1991, at 46. [86]

e. 50% of Kuwaiti Fires Are Out, AP Wire, Sep. 12, 1991. [151]

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b. Desert Storm Message O 231522Z FEB 91, fm CIA to DIRNSA, et al., Subj: Comments by an On-Scene Observer Concerning Hostage Taking by the Iraqi Forces In Kuwait (SECRET).

c. Message P 231619Z FEB 91, fm USOFFICE TAIF to SECSTATE WASHDC, Subj: Remembering Kuwait Detainees (SECRET).

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   b. Desert Storm Messages, P 231203Z FEB 91, fm USCINCCENT to AIG 7057, Subj: Possible War Crimes (SECRET).

8. **War Crimes and Atrocities - POWs/U.S. Civilian Hostages/Other Nationals (Including Kuwaitis):**

   a. Desert Storm Message O 232308Z FEB 91, fm CDR A CO 202 MI BN to AIG 77057, et al., Subj: Coalition POW Held at Munitions Factory South of Baghdad (SECRET).

   b. Desert Storm Message O 141800Z MAR 91, fm DET 6 AFSAC to DIA, Subj: USAF POW Report. Part One--Desert Storm (SECRET).

   c. Desert Storm Message O 191800Z MAR 91, fm DET 6 AFSAC to DIA WASHDC, Subj: POW Report Four--Desert Storm (SECRET).

   d. Desert Storm Message O 052304Z APR 91, fm CDR, VII CORPS G-3 OPS to 1 CVS) ARM DIV 1 G-3 OPS, et al, Subj: Commander's Sitrep #78: - Iraqi Military Atrocities (SECRET).

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   f. Iraq's Treatment of POWs (CBS Evening News, Mar. 11, 1991). [34]

   g. Pentagon carefully noting Iraqis who abused POWs, Wash. Times, Mar. 13, 1991. [35]

   h. Ex-POWs tell of 'persuasion' by Iraqis, Wash. Times, Mar. 18, 1991. [44]

   i. Ex-POW recalls isolation and beatings, Wash. Times, Mar. 18, 1991, at 5. [45]

   j. American War Prisoners Abused By Iraqi Captors, Pentagon Says, N.Y. Times, Mar. 12, 1991. [47]

   k. Freed U.S. POWs describe mistreatment by Iraqis, Balto. Sun, Mar. 17, 1991. [48]

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l. Pentagon Says Iraqis Mistreated POWs, The Assoc. Press, Mar. 12, 1991. [73]

m. POWs Hold Press Conference (CBS Evening News, Mar. 14, 1991). [78]

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p. POWs recount coercion by captors, Pittsburgh Post-Gazette, Mar. 15, 1991, at 1, col. 2. [82]

q. Desert Storm Message O 231608Z FEB 81 fm CDR A CO 202 MI BN to AIG 7057, et al., Subj: Possible War Crimes (SECRET).

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s. Desert Storm Message O 260211Z FEB 91, fm CIA to DIRNSA, et al., Subj: Reporting From Kuwait Resistance On Iraqi Atrocities In Kuwait (SECRET).

t. Desert Storm Message R 222009Z FEB 91, fm DIA to DMAHTC WASHDC, et al., Subj: The Situation In Kuwait (SECRET).

u. Desert Storm Message R 221321Z FEB 91 fm CIA to DIRNSA, et al., Subj: Military Developments In Kuwait (SECRET).

v. Desert Storm Message P 121130Z MAR 91 fm 202 MI BN to RHSGEPW, Subj: Kuwaiti Nationals Tortured and Executed by Iraqi Occupation Forces (SECRET).

w. Desert Storm Message P 170945Z MAR 91, fm 202 MI BN to RHSGEPW, Subj: Rape and Plunder of Kuwaiti Resident(s) (SECRET).

x. Desert Storm Message P 171515Z MAR 91, fm 202 MI BN to RHSGEPW, Subj: Extract and Summary Translation of Iraqi Daily Reports on Various Incidents Of Theft and Confiscation of Kuwaiti Property (SECRET).

y. Desert Storm Message P 180940Z MAR 91, fm 202 MI BN, to RHSGEPW, Subj: Orders to Execute Members of the Kuwait Resistance: Names of Iraqi Collaborators (SECRET).

z. Desert Storm Message P 181600Z MAR 91, fm 202 MI BN to RHSGEPW, Subj: Arrests [by Iraqis] in Kuwait (SECRET).

aa. WCDC Specific Incident Crime Forms 1 thru 71.

bb. MESSAGE P 290855Z APR 91 fm AMEMBASSY to SECSTATE, Subj: U.S. Information Request on War Crimes Trial (CONFIDENTIAL). [133]

cc. Message O 272038Z APR 91, fm SECSTATE to AMEMBASSY RIYADH, Subj: War Crimes Information From Kuwait and Saudi Arabia (CONFIDENTIAL). [134]

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f. Desert Storm Message P 171212Z MAR 91, fm 202 MI BN FWD, TO RHSGEPW, Subj: Instructions to Blow Up the Oil Wells If Attacked (SECRET).

g. Desert Storm Message P 141830Z MAR 91, fm 202 MI BN FWD, to RHSGEPW, Subj: Confiscation of Goods in Kuwait and Orders to Follow an Individual Holding the Keys to a Bank in Kuwait (SECRET).

h. Desert Storm Message P 140940Z MAR 91, fm 202 MI BN FWD TO RHSGEPW, Subj: [Iraqi] Capture of [Kuwaiti] Government Officials and Resistance Members (SECRET).

i. Desert Storm Message P 140900Z MAR 91, fm 202 MI BN FWD to RHSGEPW, Subj: Iraqi Order for the Withdrawal of Kuwaiti Currency to be Sent to 16th Div. Security Corps (SECRET).

j. Desert Storm Message P 170810Z MAR 91, fm 202 MI BN FWD to RHSGEPW, Subj: Kuwaiti Goods Confiscated by Iraq (SECRET).

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m. Desert Storm Message P 180940Z MAR 91, fm 202 MI BN FWD to RHSGEPW, Subj: Orders to Execute Members of the Kuwait Resistance; Names of Iraqi Collaborators (SECRET).

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    b. A Report by Physicians for Human Rights/Denmark and Physicians For Human Rights/USA. Iraq - Occupied Kuwait: The Health Care Situation (Mar. 1991).

    c. J. Anderson and D. Van Atta, Cindy McCain's Mission, Wash. Post, Jul. 7, 1991, at B7, col. 2. [173]

11. **Iraqi Policies:**

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    b. Desert Storm Message P 251435Z, fm CDR 513TH MI BDE to JCS, et al., Subj: Iraqi Treatment Of Iranian Prisoners (SECRET).

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    f. Hussein Tightens Grip by Dismissing Premier, N.Y. Times, Sep. 15, 1991, at 8. [155]

IX. GENERAL INCIDENT FILES:

1. **Non-US Government Agency Reports, Messages and Memoranda:**

    a. Message O 111800Z JAN 91, fm HQDA to ARCENT/JA, et al., Subj: ICRC Law of War Memorandum (UNCLASSIFIED).

    b. Message O 191711Z Dec 90, fm AMEMBASSY LONDON to SECSTATE, Subj: December 19 Amnesty International Report on Human Rights Violations in Iraq/Occupied Kuwait (UNCLASSIFIED).

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a. Message P 3110257Z JAN 91, fm US MISSION USUN NY to RUEHC/SECSTATE, Subj: U.N. DOCUMENTS ON THE GULF CRISIS (UNCLASSIFIED).

b. Message O R 090400Z APR 91, FM CINCFOR to JOINT STAFF, USCINCCENT, et al., Subj: Sitrep No: 245, Iraqi Acceptance of S/RES/687 (SECRET).

c. Message O 090155Z APR 91 fm USMISSION USUN NY to SECSTATE WASHDC, Subj: Security Council Discussion On Observer Force in Iraq/Kuwait (UNIKOM) (CONFIDENTIAL).

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h. U.N. Members Urge Force Against Iraq, Wash. Post, Sep. 11, 1991, at A26, col. 1. [144]

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j. Some Scuds still not found, U.N. inspectors fear, Wash. Times, Sep. 12, 1991, at A7, col. 1. [149]

k. Saddam thumbs nose at U.N., Wash. Times, Sep. 16, 1991, at A7, col. 6. [152]

l. U.N. Inspection Team Leaves Iraq, Wash. Post, Sep. 16, 1991, at A21, col. 1. [154]

m. U.N. Chief to Report on Iraq-Kuwait-Island Battle, N.Y. Times, Aug. 30, 1991, at A5, col. 1. [157]

n. U.N. Investigates Iraqi Action On Gulf Island, Wash. Post, Aug. 30, 1991, at A24, col. 4. [158]

3. **Department of State Material on War Crimes:**

a. Memorandum, 5 Nov. 90, fm COL Green to CPT Mandsager, COL Burger, COL Bridge, Subj: DOS Draft Reparations and War Crimes Resolution.

b. Memorandum, Oct. 19, 1990, fm Capt. Greiveldinger to COL Green/CPT Sattler/COL Burger/Mr. Parks, Subj: Demarche to Iraq (CONFIDENTIAL), w/attached Summary of Responses by other Countries to U.S. Planned Demarche to Iraq on War Crimes (Oct. 17, 1990) (CONFIDENTIAL) and 24 Department of State telegrams (CONFIDENTIAL).

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a. Undated, Unsigned Copy of Memorandum fm W. Hays Parks for Acting The Judge Advocate General fm W. Hays Parks, Subj: Iraqi War Crimes.

b. Memorandum, 19 Nov. 1990, fm The Judge Advocate General of the Air Force to Judge Advocates Deployed to Operation DESERT SHIELD w/attached Issues Committee Report #5 (Not To Be Released Outside Of U.S. Military Channels).

c. Message P R 270325Z OCT 90, fm JOINT STAFF to USCENTCOM, Subj: Reporting Alleged Iraqi Law of War Violations (SECRET).

d. Message R 200049Z MAR 91 fm SECDEF to AIG 8798, Subj: DOD News Briefing (UNCLASSIFIED).

e. Information Memorandum, 30 Aug. 1990, fm W. Hays Parks for Acting The Judge Advocate General, Subj: Iraqi War Crimes (CONFIDENTIAL).

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b. Message P 191313Z MAY 91, fm FBIS LONDON UK to RUCWAA, Subj: Military Court Sentences Iraqi Collaborators (UNCLASSIFIED).

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